

The Gazette



of India

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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 20th February 1963 :—

Issue No.	No. and Date	Issued by	Subject
28	S.O. 490, dated 13th February, 1963.	Ministry of Railways	Appointing Shri Srish Chandra Lala, Distric and Sessions Judge Darbhanga, as claims Commissioner regarding the Railway accident involving 2 Down AT Mail and 35 Up Passenger at Umeshnagar.
29	S O 491, dated 16th February, 1963.	Ministry of Commerce and Industry	Amendments to the Exports (Control) Order, 1962.
30	S.O. 492, dated 16th February, 1963	Ministry of Information and Broadcasting.	Approval of films specified therein.
31	S.O 531, dated 20th February, 1963	Ministry of Commerce and Industry.	Amendments to the Exports (Control) Order, 1962.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 15th February, 1963

S.O. 535.—It is hereby notified for general information that the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, incurred by the person whose name and address are given below, has been

removed by the Election Commission in exercise of the powers conferred on it by the said clause and section of the said Act:—

SCHEDULE

Name and address of the disqualified candidate	Serial No. and name of constituency	Commission's notification No. and date under which disqualified
Shri Hardayal Singh, Madaiyan Gujran Hawa, P.O. Khadar, District Shahjahanpur.	69-Kaimganj	UP-HP/69/62(64), dated the 28th August, 1962.

[No. UP-HP/69/62(64-R)/6020.]

New Delhi, the 23rd February 1963

S.O. 536.—In continuation of the Commission's notification No. 82/306/57, dated the 26th December, 1960, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 7th January, 1961, the Election Commission hereby publishes the order of the Supreme Court of India, delivered on the 21st December, 1962, in Civil Appeal No. 520 of 1962, filed by Shri Shivamurthi Swami against the order dated the 10th September, 1960, of the High Court of Mysore at Bangalore.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 520 OF 1962

Shivamurthi Swami—Appellant.

Versus

Sangappa—Respondent.

(FOR WITHDRAWAL)

ORDER

SINHA, C. J.—This appeal is allowed to be withdrawn with costs to the respondent incurred so far.

Sd./- BHUVANESHWAR P. SINHA, C.J.

Sd./- P. B. GAJENDRAGADKAR, J.

Sd./- K. N. WANCHOO, J.

Sd./- K. C. DAS GUPTA, J.

Sd./- J. C. SHAH, J.

December 21, 1962.

[No. 82/306/57.]

By order,

PRAKASH NARAIN, Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 21st February 1963

S.O. 537.—In exercise of the powers conferred by Sub-Section (I) of Section 3 of the Indian Emigration Act (No. VII of 1922), the Controller General of Emigration has been pleased to appoint Shri T. C. Nithyanandam as Protector of Emigrants, Nagapattinam with effect from the afternoon of February 6, 1963.

[No. CPEO/4/63.]

N. R. MUKHERJEE,
Attache (PVA).

MINISTRY OF FINANCE
(Department of Expenditure)

New Delhi, the 19th February 1963

S.O. 538.—In pursuance of clause (3) of article 77 of the Constitution and of all other powers enabling him in this behalf, the President hereby makes the following rules to amend the Delegation of Financial Power Rules, 1958, namely:—

1. The rules may be called the Delegation of Financial Powers (Second) Amendment Rules, 1963.

2. In the Delegation of Financial Powers Rules, 1958, for the existing entry in column 4 against item number 11(i) of the Annexure to Schedule V, the following shall be substituted, namely:—

“Expenditure shall ordinarily be incurred only with the previous consent of the Ministry of Law except—

- (a) in cases involving a total amount of Rs. 300/- for a case in the High Court of Bombay, Calcutta or Madras; Rs. 200/- for a case in any other High Court and Rs. 50/- for a case in any other court;
- (b) in respect of fees of Advocates whose names are borne on the panel approved by the Law Ministry for engagement in the High Courts of Calcutta and Bombay unless special fees exceeding fees admissible under the sanctioned schedule of fees are claimed;
- (c) in respect of fees of Government Pleaders appointed by the Ministry of Law (vide their notification No. GSR-1412, dated the 25th November, 1960 as amended from time to time) or of State Law Officers, where the fees payable are in accordance with the scale of fees fixed by the High Court, or State Government or any law for the time being in force as the case may be; and
- (d) in respect of fees of advocates whose names are borne on a panel approved by the Law Ministry for any courts other than the High Courts of Calcutta and Bombay unless special fees exceeding fees admissible under the sanctioned schedule of fees are claimed.”

[No. F. 1(65)-E.II(A)/62.]

C. R. KRISHNAMURTHI, Dy. Secy.

(Department of Economic Affairs)

New Delhi, the 22nd February 1963

S.O. 539.—Statement of the Affairs of the Reserve Bank of India, as on the 15th February 1963

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	18,12,18,000
Reserve Fund	80,00,00,000	Rupee Coin	2,30,000
National Agricultural Credit (Long Term Operations) Fund	61,00,00,000	Small Coin	1,83,000
National Agricultural Credit (Stabilisation) Fund	7,00,00,000	National Agricultural Credit (Long Term Operations) Fund—	
Deposits:—		(a) Loans and Advances to:—	
(a) Government		(i) State Governments	23,69,56,000
(i) Central Government	86,37,94,000	(ii) State Co-operative Banks	10,75,84,000
(ii) State Governments	8,94,50,000	(iii) Central Land Mortgage Banks
(b) Banks		(b) Investment in Central Land Mortgage Bank Debentures	2,84,88,000
(i) Scheduled Banks	79,05,42,000	National Agricultural Credit (Stabilisation) Fund—	
(ii) State Co-operative Banks	1,83,70,000	Loans and Advances to State Co-operative Banks
(iii) Other Banks	4,80,000	Bills purchased and Discounted:—	
(c) Others	163,37,51,000	(a) Internal
Bills Payable	30,53,84,000	(b) External
Other Liabilities	60,37,12,000	(c) Government Treasury Bills	78,39,86,000
Rupees	583,54,83,000	Balances Held Abroad*	10,00,65,000
		Loans and Advances to Governments**	27,43,55,000
		Loans and Advances to:—	
		(i) Scheduled Banks†	37,55,20,000
		(ii) State Co-operative Banks††	132,35,17,000
		(iii) Others	1,42,57,000
		Investments	206,63,64,000
		Other Assets	34,27,60,000
		Rupees	583,54,83,000

*Includes Cash and Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 25,51,50,000 advanced to scheduled banks against usance bills under section 17(4) (c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 20th day of February, 1963.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 15th day of February, 1963

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	18,12,18,000		Gold Coin and Bullion :—		
Notes in circulation	2208,53,31,000		(a) Held in India	117,76,10,000	
Total Notes issued		2226,65,49,000	(b) Held outside India	..	
			Foreign Securities	95,08,43,000	
			TOTAL		212,84,53,000
			Rupee Coin		117,38,75,000
			Government of India Rupee Securities		1896,42,21,000
			Internal Bills of Exchange and other commercial paper		..
TOTAL LIABILITIES		2226,65,49,000	TOTAL ASSETS		2226,65,49,000

Dated the 20th day of February, 1963.

P. C. BHATTACHARYYA,
Governor.

[No. F. 3(2)-BC/63.]

A. BAKSI, Joint Secy.

(Department of Revenue)

ESTATE DUTY

New Delhi, the 19th February 1963

S.O. 540.—In exercise of the powers conferred by sub-section (3) of Section 4 of the Estate Duty Act, 1953 (34 of 1953), the Central Government hereby appoints the persons, whose names are given in the appendix, to act as Valuers for the purposes of the said Act for a period of three years from the date of this notification.

2. The scale of charges for the remuneration of Valuers appointed by the Central Government for valuing any property shall be as fixed below and no such Valuers shall charge a fee at a scale higher than the scale so fixed.

Scale of charges

- On the first Rs. 50,000/- of the property so valued . . . $\frac{1}{4}$ per cent of the value.
 On the next Rs. 1,00,000/- of the property so valued . . . $\frac{1}{4}\%$ of the value.
 On the balance of the property so valued . . . $1/8$ per cent of the value.

APPENDIX

Sl. No.	Name	Address
I. Engineers/Surveyors/Architects		
1.	Shri Lakshman Swarup, M.I.E., Civil Engineer	189, Saket, Meerut.
2.	Shri Menon, C. S. B.A., B.E. (Civil)	Kailas, Wariam Road, <i>Ernakulam</i> .
3.	Shri Menon, N. Achutha, M. I. E., Mechanical Engineer	Dwarka No. 1, Dewan Bahadar Road, <i>Coimbatore</i> —2.
4.	Shri Shah, D.K.P., B.E. (Civil), A.M.I.E.	5, Shree Niwas, Plot No. 18, Maneklal, Estate, Agra Road, <i>Bombay</i> —77.
5.	Shri Venkatakrishnaiah, D., B. A. B. E. (Civil), A.M.I.E. (Ind.), A. R. I. C. S., M. I. S.	18 (1), Ranga Rao Road, Shankarapuram, <i>Bangalore</i> .
II. Accountants		
1.	Shri Amin, Y. C., F.C.A.	C/o. M/s. Dalal & Shah, Chartered Accountants, 49-55, Apollo Street, Fort <i>Bombay</i> .
2.	Shri Damania, H. M., M. Com., F.C.A.	C/o Kapadia Damania & Co., Chartered Accountants, Agakhan Building, Dalal Street, Fort, <i>Bombay</i> .
3.	Shri Talati, H. M., B.A., LL.B., F.C.A.	C/o M/s. C. C. Chokshi & Co., Chartered Accountants, Bank of Baroda Building, 4th Floor, Opposite Fuvara, Gandhi Road, <i>Ahmedabad</i> .
III. Specialist in Coffee Plantation		
1.	Shri Sreekantiah, M. S.	Sreevilas Estate, Makonahal P. O. (<i>Chikmagaleer District</i>).

Sl. No.	Name	Address
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IV. *Specialist in Agriculture and Farm Valuation*

1	Shri M. Narayana Murthy, B. A.	2705-3, Yadavagiri Extension, Mysore-2.
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[No. 3/F. No. 5/5/63-ED.]

T. R. VISWANATHAN, Dy. Secy.

CENTRAL BOARD OF REVENUE

CORRIGENDUM

New Delhi, the 18th February 1963

S.O. 541.—In exercise of the powers conferred by section 126 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Revenue directs that the words "Appellate Assistant Commissioner of Income-tax, D-Range, Calcutta" occurring in column 5 of the Schedule appended to its Notification No. 88 (F. No. 55/114/61-IT) dated the 5th December, 1962 may be substituted by the words "Appellate Assistant Commissioner of Income-tax, O-Range, Calcutta".

[No. 8(F. No. 55/114/61-IT).]

J. RAMA IYER, Under Secy.

OFFICE OF THE COLLECTOR: CENTRAL EXCISE: PATNA

TRADE NOTICE

Patna, the 7th February 1963

SUBJECT:—*Central Excise—Exemption of duty on all excisable goods donated for Flood Relief Work in the State of Punjab—Instructions regarding:*

S.O. 542.—A reference is invited to the Government of India, Ministry of Finance (Department of Revenue), New Delhi's notification No. 13/63-Central Excise, dated the 26th January, 1963.

2. According to the aforesaid notification donations of excisable goods may be made by manufacturers free of duty for relief work in the State of Punjab. The exemption will be applicable to the basic excise duty as well as the additional excise duty and handloom cess.

3. Any manufacturer of excisable goods desirous of donating the excisable commodities produced in his factory may issue it free of duty on nil A.R. 1 by attaching a certificate on the A.R. 1 that the excisable goods are meant for and are actually being sent to the Deputy Commissioners of the districts/Commissioners of Divisions/Finance Commissioner in the State of Punjab for flood relief work in the State of Punjab. The consignee will, on receipt of the excisable goods from the factories direct, send immediately an acknowledgement duly signed by him to the Central Excise Officer of the factory intimating the quantity received by them.

4. It has also been decided that if any manufacturer claims exemption in respect of excisable goods donated by him for flood relief work in the State of Punjab before issue of the said notification, full particulars of such donations together with such proof as the manufacturer may wish to produce in support of his claim of refund should be submitted to the Central Board of Revenue through the Assistant Collector, Central Excise concerned and the undersigned.

[No. 14/4/MP/63.]

A. R. SHANMUGAM, Collector.

MINISTRY OF COMMERCE & INDUSTRY

New Delhi, the 15th February 1963

S.O. 543.—In pursuance of section 12 of the Standards of Weights and Measures Act, 1956 (89 of 1956), and in supersession of the notification of the Government of India in the Ministry of Commerce and Industry No. S.O. 290, dated the 30th January, 1958, the Central Government hereby declares in relation to the primary units of length, area, volume, mass and capacity the following units to be their secondary units, namely:—

1. *Secondary units in relation to metre*

Micron	—	—6 10 metres
Millimetre	—	—3 10 „
Centimetre	—	—2 10 „
Decimetre	—	—1 10 „
Decametre	—	10 metres
Hectometre	—	2 10 „
Kilometre	—	3 10 „
Megametre	—	6 10 „

2. *Secondary units in relation to square metre*

Square millimetre	—	—6 10 Square metres
Square centimetre	—	—4 10 „
Square decimetre	—	—2 10 „
Square decametre	—	2 10 Square metres
Square hectometre (are)	—	4 10 Square metres
Square kilometre	—	6 10 „
Square megametre	—	12 10 „

3. *Secondary units in relation to cubic metre*

Cubic millimetre	—	—9 10 cubic metres
Cubic centimetre	—	—6 10 cubic metres
Cubic decimetre	—	—3 10 „
Cubic decametre	—	3 10 cubic metres
Cubic hectometre	—	6 10 „
Cubic kilometre	—	9 10 „
Cubic megametre	—	18 10 „

4. *Secondary units in relation to the kilogram*

Microgram	—	—9 10 Kilograms
Milligram	—	—6 10 „
Centigram	—	—5 10 „

Decigram	—4 10	Kilogram
Gram	—3 10	,,
Decagram	—2 10	,,
Hectogram	—1 10	,,
Quintal	2 10	Kilograms
Megagram (tonne)	3 10	,,

5. *Secondary units in relation to the litre*

Millilitre	—3 10	litre
Centilitre	—2 10	,,
Decilitre	—1 10	litre
Decalitre	2 10	litres
Hectolitre	3 10	,,
Kilolitre	6 10	,,
Megalitre	10	,,

[No. SMC-15(13)/58.]

K. V. VENKATACHALAM, Jt. Secy.

New Delhi, the 23rd February 1963

S.O. 544.—The Central Government having considered in consultation with the Forward Markets Commission, the application for renewal of recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) by The Cochin Oil Merchants' Association, Cochin, and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Association on a permanent basis with effect from the 2nd March, 1963, in respect of forward contracts in coconut oil.

2. The recognition hereby granted is subject to the condition that the said Association shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(3)-Com(Genl) (FMC)/63.]

S.O. 545.—In exercise of the powers conferred by sub-section (1) of section 15 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), the Central Government hereby declares that the said section shall apply to groundnut oil-cake (both expeller cake and deoiled meal) in the whole of the territories to which the said Act extends and fixes under clause (a) of section 16 of the said Act the rate prevailing at the time at which the forward market in the said goods closed on the date of this notification, as the rate at which any such forward contract entered into on or before the said date and remaining to be performed after the said date shall be deemed to be closed.

[No. 34(19)-Com(Genl.) (FMC)/62-I.]

S.O. 546.—The Central Government having considered in consultation with the Forward Markets Commission the application for recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by The Bombay Oilseeds and Oils Exchange Limited, Bombay, and being satisfied that it would be in the interest of trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Exchange for a period of three years from the

2nd March, 1963, in respect of forward contracts in groundnut oilcake (expeller variety) in the whole of the territories to which the said Act extends.

2. The recognition hereby granted is subject to the condition that the said Exchange shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(19)-Com(Gen.) (FMC)/62-II.]

S.O. 547.—The Central Government, having considered in consultation with the Forward Markets Commission the application for recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by The Saurashtra Oil and Oilseeds Association Limited, Rajkot, and being satisfied that it would be in the interest of trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Association for a period of three years from the 2nd March, 1963, in respect of forward contracts in groundnut oilcake (expeller variety) in the whole of the territories to which the said Act extends.

2. The recognition hereby granted is subject to the condition that the said Association shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(19)-Com(Genl.) (FMC)/62-III.]

S.O. 548.—The Central Government, having considered in consultation with the Forward Markets Commission the application for recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by The Adoni Oilseeds and Oil Exchange Limited, Adoni, and being satisfied that it would be in the interest of trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Exchange for a period of three years from the 2nd March, 1963, in respect of forward contracts in groundnut oilcake (expeller variety) in the whole of the territories to which the said Act extends.

2. The recognition hereby granted is subject to the condition that the said Exchange shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(19)-Com(Genl.) (FMC)/62-IV.]

S.O. 549.—The Central Government, having considered in consultation with the Forward Markets Commission the application for recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by The Hyderabad Oils and Seeds Exchange Limited, Hyderabad, and being satisfied that it would be in the interest of trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Exchange for a period of three years from the 2nd March, 1963, in respect of forward contracts in groundnut oilcake (expeller variety) in the whole of the territories to which the said Act extends.

2. The recognition hereby granted is subject to the condition that the said Exchange shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. 34(19)-Com(Genl.) (FMC)/62-V.]

M. L. GUPTA, Under Secy.

New Delhi, the 23rd February 1963

S.O. 550/IDRA/10/1/63.—In exercise of the powers conferred by sub-section (1) of section 10 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby fixes a period of nine months from the date of publication of this notification as the period within which the owner of every existing industrial undertaking situated in the union territory of Goa, Daman and Diu and pertaining to the industries specified in the First Schedule to the said Act shall register the undertaking in the prescribed manner.

[No. 4(8)/Lic.Pol./62/2.]

S.O. 551/IDRA/1/62/1.—In exercise of the powers conferred by sub-section (1) of section 10 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby fixes a period of nine months from the date of publication of this notification as the period within which the owner of every existing industrial undertaking, engaged in the manufacture or production of Precious metals, including gold and silver, and their alloys, shall register the undertaking in the prescribed manner

[No. 4(11)/Lic Pol/62/1]

S.O. 552/IDRA/29B/1/63.—In exercise of the powers conferred by sub-section (1) of section 10 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby exempts from the operation of sections 10, 11, 11A and 13 of the said Act and the rules made thereunder, all industrial undertakings located in the union territory of Goa, Daman and Diu, which pertain to an industry specified in the First Schedule to the said Act, other than an undertaking pertaining to coal falling under "(1) Coal, lignite, coke and their derivatives" under the heading "2 Fuels", and which have fixed assets, that is, investments in land building and machinery, not exceeding rupees ten lakhs in value, irrespective of the number of workers employed

[No. 4(8)/Lic Pol./62/1]

K J GEORGE, Dy Secy.

(Indian Standards Institution)

New Delhi, the 4th May 1962

S. O. 553.—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that the Indian Standard(s), particulars of which are given in the Schedule annexed, have been established during the period 30th April to 1st May 1962

THE SCHEDULE

Sl. No	Title of the Indian Standard established	No. and Title of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Brief Particulars
(1)	(2)	(3)	(4)
I	IS.101-1961 Methods of Test for Ready Mixed Paints and Enamels (Revised)	IS 101-1950 Methods of Test for Ready Mixed Paints and Enamels.	This standard prescribes the methods of test which are common to several detailed Indian Standard specifications for individual ready mixed paints and enamels. The standard contains definitions of terms used in the trade and industry, methods of sampling, and instructions regarding the preliminary examination of samples as also the preparation of panels for tests. It covers the methods of determining drying time, finish, gloss, spreading rate, spreading time, wet opacity, colour, fastness to light, residue on sieve, water content, hardness, flexibility and adhesion, protection against corrosion, resistance to lubricating oil, petroleum hydrocarbon solvent 90/135

(1)	(2)	(3)	(4)
			and petrol resistance to heat and water, flash point, weight per 10 litres, volatile content, pigment and non-volatile matter content, lead from the point of view of lead restriction, freedom from lead, etc. Conditions for the marking and packing of paints, especially lead paints and lead-free paints, are also specified. The standard does not deal with the materials but prescribes only the methods for determining whether they conform to the requirements of individual standards (Price Rs. 7.00).
2	IS:275-1961 Specification for Padlocks (<i>Second Revision</i>).	IS:275-1957 Specification for Padlocks (<i>Revised</i>).	This standard lays down requirements for padlocks used for locking doors, boxes, almirahs, etc., fitted with sliding bolts, hasps and staples, and chains (Price Rs. 3.00).
3	IS:318-1962 Specification for Leaded Tin Bronze Ingots and Castings (<i>Revised</i>).	IS:318-1952 Specification for Leaded Tin Bronze Ingots and Castings (<i>Tentative</i>).	This standard covers the requirements for five grades of leaded tin bronze ingots and castings, designated as Grade 1, Grade 2, Grade 3, Grade 4 and Grade 5 (Price Rs. 2.50).
4	IS:407-1961 Specification for Brass Tubes for General Purposes (<i>Revised</i>).	IS:407-1953 Specification for Brass Tubes for General Purposes.	This standard covers the requirements of solid drawn brass tubes for the manufacture of hand tyre inflators and other general purposes. It specifies the preferred method of designating tubes by their outside diameter and lays down the permitted tolerances on outside diameter, thickness and length of tubes (Price Rs. 2.50).
5	IS:630-1951 Specification for Bicycle Spokes (Plain) and Nipples for Spokes (<i>Revised</i>).	IS:630-1955 Specification for Bicycle Spokes (Plain) and Nipples for Spokes (<i>Tentative</i>).	This standard covers the requirements of bicycle spokes (plain) and nipples and washers intended for use with them (Price Rs. 2.00).
6	IS:966-1962 Specification for Desiccated Coconut.	..	This standard prescribes the requirements and the methods of test for desiccated coconut (Price Rs. 2.00).
7	IS:1448 (Part I) — 1950 Methods of Test for Petroleum and its products, Part I.	IS:310-1951 Methods of Sampling and Test for Lubricants, Part I IS: 310 (Part II) — 1954 Method of Sampling and Test for Lubricants, Part II.	This standard prescribes the methods of test which are common to several detailed Indian Standard Specifications for individual petroleum products. It covers definitions of terms used in the trade and industry and test procedures for determining acid and base numbers, acidity, aniline point, ash, burning quality, calorific value, carbon residue, cetane number cloud and pour point, cold test

(1)	(2)	(3)	(4)
			<p>temperature, colour, colour corrosion, density, diesel index, distillation, doctor test, flash point, hard asphalt, hydrocarbon types, kauri-butanol value, kinematic viscosity, knock characteristics, oxidation stability, residue on evaporation, sediment, smoke point, specific gravity, sulphur, tetraethyl lead, vapour pressure, water content, water and sediment and water tolerance (Price Rs. 25.00).</p>
8	IS: 1561-1962 Specification for Set Squares for use of Drawing Offices.	..	<p>This standard covers requirements for two types of fixed angle set squares, namely (a) 45 degree—45 degree, and (b) 60 degree—30 degree complementary angles; commonly used by cartographers, surveyors and engineers (Price Rs. 1.00).</p>
9	IS: 1797-1961 Methods of Sampling and Test for Spices and Condiments.	..	<p>This standard prescribes the methods of sampling and test for spices and condiments (Price Rs. 5.50).</p>
10	IS: 1879-1961 Specification for Malleable Cast Iron Pipe Fittings.	..	<p>This standard covers malleable cast iron pipe fittings screwed in accordance with IS: 534-1955 Specification for Pipe Threads for Gas List Tubes and Screwed Fittings (<i>Tentative</i>). The dimensions specified (centre-to-face, face-to-face and centre-to-centre) are essential for interchangeability (Price Rs. 5.00).</p>
11	IS: 1881-1961 Code of Practice for Installation of Indoor Amplifying and Sound Distribution Systems.	..	<p>This code, dealing with the installation of amplifying and sound distribution systems inside closed auditoria and other similar enclosure, seeks to establish a standard practice for such installations and proper and severe criteria for good and reliable performance ensuring desired quality of reproduction from the system as a whole in the enclosure (Price Rs. 5.00).</p>
12	IS: 1882-1961 Code of Practice for Outdoor Installation of Public Address Systems.	..	<p>This code of practice, dealing with the installation of public address systems in open spaces in places which may be adjacent to permanent buildings or temporary structures, seeks to establish a standard practice for such installations, and a proper set of criteria for good and reliable performance ensuring desired quality of reproduction from the system as a whole in the area covered (Price Rs. 5.00).</p>

(1)	(2)	(3)	(4)
13	IS: 1902-1961 Code of Practice for Preservation of Bamboo and Cane for Non-structural purposes.	..	This code covers types of preservatives, treatment of bamboos and canes used both indoor and outdoor for non-structural purposes like chicks, jafri, ladders, mats, furniture, basketware, etc. It also includes recommendations on the choice of treatment depending on the various uses to which the bamboo and cane are put (Price Rs. 2.50).
14	IS: 1904-1961 Code of Practice for Structural Safety of Buildings : Foundations.	..	This standard lays down the requirements for structural safety of foundations (Price Rs. 5.00).
15	IS: 1905-1961 Code of Practice for Structural Safety of Buildings : Masonry walls.	..	This standard gives structural recommendations for both load bearing and non-load bearing masonry walls (Price Rs. 3.50).
16	IS: 1913-1961 General and Safety Requirements for Electric Light Fittings.	..	This standard specifies the design and constructional requirements, marking and tests applicable to all the individual specifications on lighting fittings for indoor and outdoor purposes rate for a maximum of 250 V (Price Rs. 2.50).
17	IS: 1929-1961 Specification for Rivets for General Purposes (12 to 48 mm Diameter).	..	This standard prescribes the requirements for mild steel and high tensile steel rivets, 12 to 48 mm in diameter, for general purposes (Price Rs. 2.00).
18	IS: 1932-1961 Specification for Mustard and Rape Oilcake as Livestock Feed.	..	This standard prescribes the requirements and the methods of test for mustard and rape oilcake used as livestock feed (Price Rs. 1.50).
19	IS: 1939-1961 Specification for Handloom Cotton hand kerchiefs, Bleached, Striped or Checked.	.	This standard prescribes constructional details and other particulars of 16 varieties of handloom cotton handkerchiefs, bleached, striped or checked (Price Rs. 2.00).
20	IS: 1958-1961 Specification for Nickel Anodes for Electroplating.	.	This standard covers the requirements of nickel anodes, both oxide type and carbon type, used for electroplating (Price Re 1.00).
21	IS: 1975-1961 Specification for Colours for Signal Glasses for Use in Railways.	..	This standard prescribes the colorimetric and photometric requirements and the methods of test of red, yellow and green glasses used in connection with signalling in railways, including lenses and semaphore glasses (Price Rs. 2.50).
22	IS: 1982-1962 Code of Practice for Ante-Mortem and Post-Mortem Examinations of Meat Animals.	..	This standard prescribes the procedure for the Ante-Mortem and Post-Mortem examination of meat producing animals (Price Rs. 3.00).

1	2	3	4
23	IS: 1985-1962 Code of Practice for Pretreatment of Steel, Copper and Copper Base Alloys, Zinc and Zinc Base Alloys for Electroplating		This code covers the recommended practice for pretreatment of steel copper and copper base alloy, zinc and zinc base alloys for electroplating (Price Rs. 1.00).

Copies of these Indian Standards are available, for sale, with the Indian Standards Institution Manak Bhavan, 9, Mathura Road, New Delhi-1, and also at its Branch Offices at (i) 232, Dr. Dadabhoy Naoroji Road, Fort, Bombay-1, (ii) Third Floor, 11, Sooterkin Street, Calcutta-13, (iii) 2/21, First Line Beach, Madras, and (iv) 14/69, Civil Lines, Kanpur.

[No. MD/13:2.]

C. N. MODAWAL

Head of the Certification Marks Division.


(Indian Standards Institution)

New Delhi, the 19th February 1963

S.O. 554.—In partial modification of the Standard Mark, notified in the schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 1508 dated the 30th April 1962 published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 19th May 1962, the Indian Standards Institution hereby notifies that the Standard Mark for Oil Pressure Lanterns, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the schedule hereto annexed, has been revised.

This Standard Mark for the purpose of Indian Standards Institution (Certification Marks) Act, 1952, as amended in 1961 and the Rules and Regulations framed thereunder, shall come into force with immediate effect.

THE SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Products	No. and Title of the Relevant Indian Standard	Verbal description of the design of the Standard Mark
1	2	3	4	5
1		Oil Pressure Lanterns.	IS:1384-1959 Specification for Oil Pressure Lanterns.	The monogram of the Indian Standards Institution consisting of letters ISI, drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian Standard being inscribed on the top side of the monogram as indicated in the design.

[No. MD/17:2.]

S. O. 555.—In partial modification of the rate of marking fee for various products notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 361, dated the 4th February 1960, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 13th February 1960, the Indian Standards Institution hereby notifies that the marking fee per unit for the products, details of which are given in the Schedule hereto annexed, have been revised. The revised rates of marking fee shall come into force with effect from 1 January 1963.

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1	Naval Brass Rods and Sections (Suitable for Machining and Forging)	IS: 291-1961 Specification for Naval Brass Rods and Sections (Suitable for Machining and Forging) (<i>Revised</i>)	One Metric Tonne	Rs. 3.00
2	Free Cutting Brass Rods and Sections	IS: 319-1962 Specification for Free Cutting Brass Rods and Sections (<i>Revised</i>)	One Metric Tonne	Rs. 3.00
3	High Strength Brass Rods, Bars and Sections	IS: 320-1951 Specification for High Strength Brass Rods, Bars and Sections (<i>Tentative</i>)	One Metric Tonne	Rs. 3.00

[No. MD/18:2]

D. V. KARMARKAR,

Head of the Certification Marks Division.

MINISTRY OF HEALTH

New Delhi, the 22nd February 1963

S.O. 556.—Whereas the Government of the State of Kerala has, in exercise of the powers conferred on it by clause (c) of sub-section (2) of section 3 of the Prevention of Food Adulteration Act, 1954 (37 of 1954), re-nominated Shri P. Janardana Iyer, Public Analyst, Chief Government Analyst's Laboratory, Trivandrum, to be a member representing that Government on the Central Committee for Food Standards;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Prevention of Food Adulteration Act, 1954, the Central Government hereby directs that the said Shri P. Janardana Iyer, Public Analyst, Chief Government Analyst's Laboratory, Trivandrum, shall continue to be a member of the Central Committee for Food Standards, constituted by the notification of the Government of India in the Ministry of Health, No. S.R.O. 1236, dated the 1st June, 1955, for a further period of three years.

[No. F. 14-54/61-P.H.]

B. B. L. BHARADWAJ, Under Secy.

MINISTRY OF TRANSPORT & COMMUNICATIONS

(Deptts. of Communications & Civil Aviation)

New Delhi, the 19th February 1963

S.O. 557.—In modification of Notification No. 20-CA(5)/62, dated the 18th October, 1962, the Central Government, in consultation with the Indian Airlines,

has appointed Shri Ramanand Das, as a Member of the Advisory Committee of the Indian Airlines Corporation *vice* Shri M. L. Khaitan,

[No. 20-CA(5)/62.]

K. GOPALAKRISHNAN, Dy. Secy.

(Deptts. of Communications & Civil Aviation)

(P. & T. Board)

New Delhi, the 18th February 1963

S.O. 558.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following further amendments in the notification of the Government of India in the late Ministry of Communications (Posts and Telegraphs) No. S.R.O. 620, dated the 28th Feb. 1957, namely :

In the Schedule to the said notification, in part III—General Central Service, Class IV, under the heading “Railway Mail Service”, for the entry “Posts” in column 1, the following words shall be substituted, namely :—

“All Posts”.

[No. 44/18/62-Disc.]

D. K. AGARWAL, Asstt. Director Genl.

(P. & T. Board)

New Delhi, the 22nd February 1963

S.O. 559.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General Posts and Telegraphs, hereby specifies the 1st April 1963 as the date on which the Measured Rate System will be introduced in Ranchi and Doranda Telephone Exchanges.

[No. 31/10/62-PHB.]

S. RAMA IYER,

Asstt. Director General (PHB).

MINISTRY OF SCIENTIFIC RESEARCH & CULTURAL AFFAIRS

New Delhi, the 16th February 1963

S.O. 560.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act shall apply to the Provident Fund established for the benefit of the employees of the Indian Institute of Technology, Kanpur.

[No. F. 23-8/61-T.6.]

S.O. 561.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the name of the following public institution shall be added to the Schedule to the said Act, namely :—

“The Indian Institute of Technology, Kanpur”.

[No. F. 23-8/62. T. 6.]

H. S. SHAHANI,

Assistant Educational Adviser.

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 19th February, 1963.

S.O. 562.—In exercise of the powers conferred by section 82-B of the Indian Railways Act, 1890 (9 of 1890), read with Sub-rule (1) of rule 4 of the Railway Accident's (Compensation) Rules, 1950, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the Ministry of Railways (Railway Board) No. 893-TGIV-58/3 dated the 28th January 1960, namely:

In the Schedule annexed to the said Notification for items 40 and 41 and the entries relating thereto the following items and entries shall be substituted, namely:—

"40. Addl. District Magistrate (Judicial) Deoria

41. District Magistrate Basti".

[No. 63TGIV-1026-7 (viii).]

New Delhi, the 20th February 1963

S.O. 563.—In pursuance of rule 5A of the Public Premises (Eviction of Unauthorised Occupants) Rules, 1958, the Central Government hereby authorises the Gazetted Officers mentioned in column 1 of the Table below to transfer, either *suo moto* or on application any proceedings pending before an Estate Officer and pertaining to public premises specified in the corresponding entry in column 2 thereof:—

TABLE

<i>Gazetted Officers</i>	<i>Public Premises.</i>
I	2
	Under the control of :—
1. Senior Deputy General Manager, Central Railway.	Central Railway.
2. Senior Deputy General Manager, Eastern Railway.	Eastern Railway.
3. Senior Deputy General Manager, Northern Railway.	Northern Railway
4. Chief Engineer, N.E. Railway	North Eastern Railway.
5. Chief Engineer, N.F. Railway	Northeast Frontier Railway.
6. Senior Deputy General Manager, Southern Railway.	Southern Railway.
7. Senior Deputy General Manager, South Eastern Railway.	South Eastern Railway
8. Senior Deputy General Manager, Western Railway.	Western Railway.
9. General Manager Chittaranjan Locomotive Works, Chittaranjan.	Chittaranjan Locomotive Works.
10. General Manager, Diesel Locomotive Works, Varanasi.	Diesel Locomotive Works.
11. General Manager, Integral Coach Factory, Perambur, Madras.	Integral Coach Factory
12. Chief Engineer, D.B.K. Railway Project, Waltair.	Dandakaranya Bolangir Kiriburu Railway Project.

[No. 62/WII/QR/66.]

P. C. MATHEW, Secy.

MINISTRY OF WORKS, HOUSING & REHABILITATION

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

ORDER

New Delhi, the 22nd February 1963

S.O. 564.—In exercise of the powers conferred by sub-section (2) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), I, N. P. Dube, Chief Settlement Commissioner hereby delegate to Shri Iqbal Singh, Assistant Settlement Commissioner, Punjab, with effect from the 1st March, 1963 the powers conferred upon me under Section 23 and 24 of the said Act for the purpose of passing necessary orders under these Sections in so far as they relate to the custody, management and disposal of property (including agricultural land) in the State of Punjab in a rural area as defined in clause (f) of rule 2 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955, which forms part of the Compensation Pool.

[No. 3(59)/L&R/61.]

N. P. DUBE,
Chief Settlement Commissioner.

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 20th February 1963

S.O. 565.—In exercise of the powers conferred by sub-section (2) of section (8) of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act shall apply to the Provident Funds established for the benefits of the employees of the Vizagapatam Dock Labour Board established under the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948).

[No. 526/18/62-Fac.(ii).]

K. D. HADJELA, Under Secy.

New Delhi, the 21st February 1963

S.O. 566.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the Industrial dispute between the employers in relation to the Nowrozabad Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE No. CGIT-20 of 1962

Employers in relation to the Nowrozabad Colliery

AND

Their Workmen.

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

APPEARANCES:

For the workmen: Shri K. B. Chougule, General Secretary, with Shri H. C. Gureja, Secretary, Nowrozabad Colliery Mazdoor Sangh.

For the employers: Counsel, Shri P. P. Khambatta with Shri G. L. Govil and Shri J. D. Sumariwalla, Personnel Officers, Associated Cement Cos. Ltd., and Shri M. S. Kapur, Personnel and Welfare Officer of the Collieries.

INDUSTRY: Coal Mining.

STATE: Madhya Pradesh.

Dated, Bombay, the 15th February, 1963.

AWARD

The Government of India, by the Ministry of Labour and Employment's Order No. 1/1/62-LRII, dated 21st July 1962, made in exercise of the powers conferred by section 10(1)(d) of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to refer the industrial dispute between the parties above-named, in respect of the subject matters specified in the following schedule to the said order to me for adjudication:—

SCHEDULE

"Having regard to the nature of the duties performed by the loco drivers of Nowrozabad Colliery, whether they should be placed in category VII, and if so, from what date after the 3rd November, 1961."

2. After the parties had filed their written statements, I heard the submissions of the parties and the hearing concluded on 22nd October 1962, but before I could submit my Award, the Central Government, by the Ministry of Labour and Employment's Order No. 1/1/62-LRII, dated 6th November 1962, made in exercise of the powers conferred by Section 10(1)(d) of the Industrial Disputes Act, 1947 (Act XIV of 1947), was pleased to amend the schedule to its earlier order dated 21st July 1962 by directing that the words, "after 3rd November 1961", appearing therein, shall be omitted. Thereupon, after the parties had filed their written statements on the amended order, I heard the submissions of the parties thereon, and the hearing of the dispute concluded before me on 24th January 1963.

3. The dispute centres round the proper categorisation of the Loco Drivers of the Nowrozabad Colliery under the Award of the All-India Industrial Tribunal (Colliery Disputes), (hereinafter referred to as the Majumdar Award). The company has classified all its loco drivers in category V of the Majumdar Award whilst the claim of the union is that having regard to the nature of the duties performed by the loco drivers, they should be placed in category VII. For category V workmen the Majumdar Award, as modified by the decision of the Labour Appellate Tribunal, had fixed the basic wage of Rs. 1-5-0 i.e. Rs. 1-31 nP. per day and that under the Arbitration Award of Shri A. Das Gupta dated 30th December, 1959, the pay scale of Rs. 1-31 nP. to Rs. 1-85 nP., has been prescribed for that category. The Appellate Tribunal prescribed the basic wage of Rs. 1-87 nP. for category VII workmen and under the Das Gupta Arbitration Award the scale prescribed for category VII workmen is Rs. 1-87 nP. to Rs. 2-59 nP. It is admitted that in the Nowrozabad Colliery diesel locomotives are used on the surface to carry loaded tubs from the four incline mouths of the Colliery to the washery and to bring back empty tubs to the respective incline from the washery. Formerly, locos were also used to take rejects from the washery, but now trucks are used for that purpose. It is admitted that the colliery has in all 6 locos, particulars of each of which have been stated in the company's statement Exhibit E-4.

4. The company in its written statement dated 8th August 1962 has stated that all the 7 loco drivers at the colliery are employed to drive small locos engineered by diesel on the surface, and they rightly fall into the job description No. 172 in Appendix XI to Volume II of the Majumdar Award; that having regard to the nature of the duties of the Loco Drivers in this Colliery the company has from the date the locos were put into commission put them in category V under the Majumdar Award, which was their appropriate category and, therefore, there was no case for upgrading them to category VII.

5. The union, in its written statement dated 10th August 1962, has stated that these locos are used to transport loaded and empty tubs between the four incline mouths and the washery, the longest distance being about a mile from incline No. 3 to the washery and the shortest being about one-third of a mile; that the locos are engineered on diesel oil and that each locomotive has to carry 30 loaded tubs containing 30 to 35 tons of coal; that the work of the loco drivers is skilled and involves hard work and that the company had placed them in category VI, which was not the appropriate category, and that considering the nature of their duties they should be placed in category VII from the date of their appointment as loco drivers, but as the Government had in the order of reference limited the date from which the demand could be granted, from a date after 3rd November 1961, the union prayed that all loco drivers should be granted the benefit of category VII from 3rd November 1961, and if the date

of joining service of any loco driver was later, then from such later date for such driver.

6. The company in its rejoinder dated 22nd September 1962 has denied that the locos used are large-sized locos or that they carry 30 loaded tubs containing 30 to 35 tons of coal, as stated by the union. It has denied that the loco drivers do hard work or that the company had put them in category VI. It has reiterated that category V is the correct category for the loco drivers and it has in its written statement annexed particulars of the 7 loco drivers at present employed, to show that none of them had experience of loco driving prior to their appointment as loco drivers and that almost all of them, prior to their appointment as loco drivers, were unskilled workmen and that after training in the job of operating locos, they were placed in category V. It has relied upon job description No. 172 in Appendix XI to the Majumdar Award which is as follows:—

Job Description No. 172:

"Small petrol/electrical/diesel Loco Driver.—A workman employed to drive locos which are engined by petrol/diesel or electric motors. Light locos are employed for various haulage works on the surface, whilst diesel or electric locomotives of considerable horse-power, tractive effort and weight may be used underground."

The company has submitted that the Locos used by the company are light and as they are used on the surface, their drivers properly fall in category V.

7. At the hearing, the union in support of its claim examined Shri Murlimanohar Sharma, a Loco Driver, and the company examined (1) Shri Sevasingh, son of Sardar Balwantsingh, Assistant Mechanical Engineer of the colliery and (2) Shri Rajendrapal Malhotra, Assistant Manager, Nowrozabad Colliery.

8. The union's witness (WW-1) stated that the distance from incline No. 3 to the washery is about a mile and a quarter and from the incline No. 2, it is 7½ furlongs. According to him the number of tubs which constituted the train by the loco, depended upon the load available. He stated when there is more load each loco carries 28 to 30 tubs and when there is less load only 6 to 8 tubs are carried. According to him on an average trip 20 tubs are carried by the loco per trip; that it was more difficult to operate a loco than a truck. He also referred to the derailments caused at crossings and according to him it takes about 4 to 5 hours to re-load the derailed locomotive and about an hour to re-rail the loaded tub. He stated that the duty of the Loco Driver was continuous during his shift and that the loco driver had to deliver the empty tubs to the respective inclines. In cross-examination he stated that it had not taken him more than two months to become proficient in loco driving and he stated that he had worked the Planet, Schoma Carden and the Ruston and Hornsby locomotives. He denied that the derailed tub can be set on the line within 2 or 3 minutes. He denied that the derailment was always due to rash driving and suggested that it could take place because of the bad condition of the tub. He admitted that there was a rule in the company that not more than 16 tubs should be pulled by the bigger locos and not more than 10 by the smaller locos, but he stated that this rule is not being observed in practice and that it was not true that never more than 16 tubs are allowed to be pushed. He denied that it was easier to drive a loco than a truck. He denied that there were only 6 to 7 crossings between the incline and the washery and according to him there were 6 or 7 crossings also on the empty line. He denied that tubs were sorted inclinewise at the washery itself. He further denied that loco drivers get 7 to 8 minutes respite at the washery in each trip. According to him the loco drivers are required to wait at the washery only till the coupling is detached from the tubs.

9. The company's witness, Shri Sevasingh, son of Sardar Balwant Singh, the Assistant Mechanical Engineer, (EW-1) tendered a statement giving the particulars of the 6 diesel locos used on the surface at the Nowrozabad Colliery. It is admitted that there are no locos used underground; that loaded tubs are hauled up from the underground to the surface by a haulage at each incline and the loaded tubs are collected from the incline mouths by the locos to be taken to the washery; that of the 6 locos in this colliery, two DL-30 Ruston and Hornsby Locomotives and the one Planet locomotive, were small locomotives and the two LO-36 Schoma Carden locomotives and the one DL-40 Ruston and Hornsby locomotive, were big locomotives. The witness tendered the Colliery Manager's notice dated 3rd September 1961 (exhibit E-5) by which the maximum number of loaded tubs that may be coupled to run as a set of each haulage, was prescribed. Under this notice small locos could haul 10 loaded tubs and big locos could haul 16 loaded tubs.

This witness stated that there is no standard size of loaded tubs in Nowrozabad Colliery and that the gross weight of tubs is less than $1\frac{1}{2}$ tons and the tare weight of the tub is $\frac{1}{2}$ ton. According to this witness, compared to a loco driver, the job of driving a bulldozer is more difficult. According to him the work of driving a loco was a comparatively simple one, which could be picked up in about two or three weeks' time. To a question from the Tribunal, the witness stated that there were no permanent drivers for any particular loco but both big and small locos can be driven by any of the loco drivers. According to this witness, it takes 15 to 20 minutes to re-rail a loco on the line and 5 or 6 minutes to re-rail a loaded tub which has derailed. This witness stated that the work of the Loco Drivers was not continuous as they get 15 to 20 minutes rest at the washery per each trip and that the loco drivers get 45 minutes break at the start of the shift because the locos are then under maintenance. In his statement (exhibit E-4) the witness has given details of the weight of each loco, its horse-power, its tractive effort and weight in pound per yard of the rails used and the maximum number of loaded tubs hauled. The weight in pound per yard of the rails used has been shown as 30 pounds and he stated that the tractive effort of each locomotive had been worked out by him according to a formula contained in a book called "Coal Mining Practice" edited by K. F. Statham, Vol. II, page 476. He stated that it was on the basis of what was stated in that book that he had based his opinion that all the 6 locos in Nowrozabad Colliery are light locos. He further stated that there is a diesel mechanic who looks after the maintenance and repairs of the locos, and that a diesel mechanic checks the locos both in the morning and in the evening, by way of routine check. Under cross-examination he had to admit that there might have been an error in his calculations regarding the tractive effort of the "Planet Loco", and later he admitted that the tractive effort of that locomotive would be 1575 and not 1200 only, as shown by him in his statement (Ex. E-4).

10. In cross-examination he stated that according to these calculations each of the locomotives which weighed 5 tons can pull 24 tons approximately, which would be the weight of 16 loaded tubs. He had further in cross-examination to admit that these locos were capable of pulling even more weight than of 16 loaded tubs but he then added that their efficiency and speed would be reduced. With regard to his statement that the work of loco drivers was not continuous as they get about 20 minutes rest at the washery per each trip, he had to admit that in the company's order dated 16th June 1961 (exhibit E-7), the management had directed that on no account should any loaded tubs or empties be allowed to stand at the washery. In cross-examination he stated that for the Schoma Carden locomotive which weighs 5 tons, the company had fixed the capacity of 16 loaded tubs and had fixed the lower capacity of 10 loaded tubs for the Ruston & Hornsby locomotives because the horse-power of the Ruston & Hornsby locos is less than that of the Schoma loco. When questioned as to why for the Ruston & Hornsby DL-40 locos which has a 30-40 horse power, the company had fixed the capacity of 10 loaded tubs whilst it had fixed the capacity of 16 loaded tubs for the LO-38 Schoma Carden loco which has a 37 horse power capacity, he stated that that was so because the condition of the Ruston and Hornsby DL-40 loco is not satisfactory. He further admitted that the derailment of locomotive can also take place at places other than crossings if the rails are not in proper gauge or there is obstruction on the line and that tubs can derail because of the bad condition of rails.

11. The next witness of the company, who was examined at the adjourned hearing on 22nd October 1962, was Shri Rajendrapal Malhotra, (E-W-2), who is the Assistant Manager of the Nowrozabad Colliery. This witness stated that he had worked as a second class manager in Chirimiri Colliery among other collieries which he named, and he gave particulars of the locos being used in the Chirimiri Colliery, where locos weighing 8 to 13 tons were considered as heavy locomotives and their drivers classified in Category VII under the Majumdar Award. He stated that he had occasion to visit Kurasia Colliery which belongs to the National Coal Development Corporation, and another colliery in the same region which is known as the Ponri Hill Colliery and that these collieries used electric locomotives of the type used in the Chirimiri Colliery and he produced certificates from the Manager, New Chirimiri Ponri Hill Colliery that the drivers of locos in that colliery were classified in category VII (Ex. E-8). He also produced a certificate from the Manager, Khas and Datla West Colliery dated 17th October 1962 in which it was stated that that colliery was using diesel locomotives for surface transport of coal of 40 horse-power weighing $7\frac{1}{2}$ tons each and that the drivers of these locomotives had been placed in category V (exhibit E-9). He also deposed that during that year he had occasion to visit five or six collieries in Parasias Coalfields belonging to Shaw Wallace & Co., and Karamchand Thappar

Bros. He gave particulars of the diesel locomotives used for service transport in those collieries and stated that the Ravanwada Khas Colliery was using locomotives of 9 tons of 40—55 horse-power and that the surface transport extended over a distance of about 2½ miles; that the Datla West Colliery used diesel locomotives weighing 7½ tons with 40 horse-power capacity and that he had been informed by the Manager of that colliery that the Loco Drivers there were being paid category V wages and he produced exhibit E-9 in support of what he had ascertained in the Datla West Colliery. According to him, the loco drivers in Ravanwada Khas and Datla Collieries were being paid category V wages. He also produced a plan of the surface track in the Nowrozabad Colliery (exhibit E-10). He further stated that instruction had been issued to the workmen not to walk on the embankment of the rail track and he produced copy of one such notice dated 28th/29th December 1961 (exhibit E-11). In cross-examination he stated that he had not ascertained in Kurasia what was the weight of the locomotives used there but he stated that they were of the same type as in the Chirimiri Colliery and therefore he concluded that their weight was the same. In cross-examination he stated that he did not know that in 1961-62 Kurasia Colliery was using 4 tons locomotives. He admitted that the New Chirimiri Colliery has a gradient of 1 to 150 and that the Ravanwada Khas Colliery sends its coal in one direction from pit-head to the siding to a distance of 2½ miles, but he denied that the Datla Colliery sent its coal to Junardeo Colliery at a distance of 3 miles, nor could he state what was the distance from the pit-head to siding. He could not state how many trips loco drivers have to make per shift at Datla. He, however, admitted that the Datla Colliery used 36 to 40 cubic feet tubs but he could not state how many sets of tubs are sent per trip nor could he state as to what was the condition of the line in Datla Colliery nor had he seen what was the condition of the line in Datla Colliery. With regard to the Ravanwada Colliery he could not state the size of the mine car or tub of that colliery.

12. I may here state that it is not possible from the evidence of this witness of the company (EW-2) to draw any conclusion that in other collieries in this industry the general practice is to classify loco drivers in category V and that only loco drivers of very heavy locomotives, some of which are electric trolley locomotives, are classified in category VII. This witness was not able to give information on important details for such a general inference to be drawn.

13. I have given anxious consideration to the evidence, both oral and documentary, on record and the submissions made by the representatives of the parties, and what strikes as most pertinent is the admitted fact that the company itself has classified its existing 6 locomotives into (1) small locos and (2) big locos. Exhibit E-5 which is the company's circular dated 13th September 1961 clearly and specifically classified the existing locos in the colliery into small locos and big locos: small locos have to pull 10 loaded tubs whilst big locos have to pull 16 loaded tubs. Now, the analysis of the particulars of the locomotives as given in the company's exhibit E-4 clearly shows that of the six locomotives whose particulars are stated there, the two LO-36 locomotives of Schoma Carden make, weigh 5 tons each and the horse-power of each has been stated as 37·5 and their tractive effort as 2625. There is another locomotive, viz., the DL-40 Ruston and Hornsby which also weighs 5 tons but it has a higher horse-power capacity of 30—40 and the tractive effort of which has been worked out by the company's witness EW-1 at 2330. In my opinion, these three are the big locomotives used in the company. The three other locomotives consisting of the two DL-30 Ruston and Hornsby locomotives have each a weight of 4½ tons with horse-power capacity of 25—30, with tractive effort of 2020 and the one Planet Locomotive of 3 VSH Ruston Engine which has a weight of 3 tons only and a horse-power of 25—30. The statement exhibit E-4 shows the tractive effort of the Planet Loco as being only 1200. Now, exhibit E-4 is a statement which had been prepared by the company's witness E-W-1. That this witness was capable of making an error in the calculation about the tractive effort of each of these locomotives is clearly established by the fact that he had in his statement (E-4) worked out the tractive effort of the Planet locomotive at only 1200, whilst in cross-examination he had to admit his error and later on had to state that the tractive effort of that locomotive would be 1575, which is considerably more than what he has stated in the statement (exhibit E-4) prepared by him. I cannot therefore accept the particulars in exhibit E-4, as being absolutely correct or free from all doubts. Exhibit E-5, in my opinion, clearly shows that the company itself has classified its locomotives into big and small locos. In my opinion, the three 5 ton locomotives can well be classified as big locomotives. The two LO-36 Schoma Carden locos each of which has a weight of 5 tons has admittedly been classified as a big locomotive but I am not satisfied that there is sufficient reason for not classifying the one DL-40 Ruston and Hornsby locomotive also as a big locomotive. That locomotive

also weighs 5 tons, but we were told that its counter-weight is missing. But it has a higher horse-power capacity of 30—40 which is even higher than the horse-power capacity of the two LO-36 Schoma Carden locomotive which are stated to have a 37.5 horse-power capacity. The witness has, however, shown that the tractive effort of this loco as being only 2330 evidently because he stated that the counter-weight of this loco was missing. I am afraid that I find it difficult to accept the evidence of EW-1 on this point and I think that considering that the weight of the DL-40 Ruston and Hornsby loco is also 5 tons and its horse-power is 30—40 it could well be classified as a big locomotive like the two LO-36 Schoma Carden locos. It is significant that exhibit E-5 which is the company's Circular dated 13th September 1961 does not anywhere stated which of the locos are small locos and which are big locos. The big locos, however, are shown as being allowed to pull 16 loaded tubs and the small locos 10 loaded tubs. It is, however, not denied that even these small locos could pull 16 loaded tubs but in that event, according to EW-1, their efficiency and speed would suffer. The union's witness has stated that in fact even these small locos are made to pull more than 16 tubs when there is a lot of load to be taken to the refinery and that in practice, the Company's rule is not being strictly observed. I am inclined to think that in practice what the workers' witness WW-1 stated was more probable, viz., that though there is rule that not more than 16 tubs should be pulled by the bigger locos and not than 10 tubs by smaller locos, this rule is not being strictly observed in practice.

14. There has been controversy between the parties as to whether the work of the loco driver is continuous or not. The company's case is that the loco drivers have not to work continuously during the shift, because they get rest when they take the loaded tubs to the washery. The case of the company on this point has not been consistent. Whilst in examination-in-chief of the company's witness (EW-1) it was sought to be brought out that the work was not continuous because the loco drivers get 15 to 20 minutes rest at the washery per each trip, in cross-examination of the union's witness (WW-1), the case put to him was that the loco drivers get a respite of 7 to 10 minutes after they reach the loaded tubs to the washery. Nor am I impressed by the story of the company's witness that the loco drivers get 40 minutes break at the start of the shift because locos are at that time under maintenance. The company's Circular (exhibit E-7) and the directions contained therein militate against there being any such long pause in the work of the loco drivers before they commence work.

15. With regard to the skill involved in the work, the company's case has been that the work does not require any skill and that a loco driver can become proficient in his work after only a few weeks practice in loco driving. The company's case has been that most of the loco drivers were formerly unskilled workers and the company has in support relied upon the appointment letters of these loco drivers (exhibit E-6 collectively). It is no doubt true that most of the present loco drivers were formerly unskilled workers. It is, however, significant to note that they had to undergo a probationary period of 6 months before they were confirmed as loco drivers, which would show that before being confirmed, they had to undergo training and experience for 6 months to do the work as loco drivers. It has been argued on behalf of the management that the work of a loco driver is considerably simpler than that of a driver of an automobile or of a truck and that it involves no skill, but the significant point is that even in classifying these loco drivers in category V, the company was classifying them in the category of skilled workmen, because category V in the Majumdar Award is for skilled workmen.

16. The question under reference is whether having regard to the nature of the duties performed by these loco drivers of the Nowrozabad Colliery, they should be placed in category VII. Now, Job Description 172 only gives a job description and it does not state in which category loco drivers shall be placed. Job Description No. 172 has been placed by Appendix XII to the Majumdar Award, both in category V and category VII. In category V what is stated is:—

(172) small petrol/electric/diesel

Loco Driver.

In category VII what is stated is:—

(172) Loco.

The whole effort of the company has been to show that all the diesel locos of this company are small diesel locos and therefore the loco drivers of these locomotives should be properly classified in category V, whilst the union claims that their

proper category considering the nature of the duties performed by them is category VII. In Job Description 172 reference is made to diesel locomotives of considerable horse-power, tractive effort and weight, whilst the company has strenuously argued that all its 6 locomotives in the Nowrozabad Colliery are light locomotives. But as I have pointed out earlier the company itself in its circular (exhibit E-5) has made a distinction between these locomotives in classifying some as being big locomotives and some as small locomotives. Since the company itself admits that it has big locos, it cannot possibly with justification argue that all the loco drivers should be treated as drivers of small locos and placed under category V. I am, therefore, satisfied that the proper position is that there are both big and small diesel locomotives in this colliery, the big locomotives being the two Lo-36 Schoma Corden locos and the one DL-40 Ruston and Hornsby locos, and I am of the opinion that the drivers of these locomotives are entitled to be placed in category VII. But here a difficulty presents itself. It is admitted that no fixed loco drivers have been assigned to any of the company's six locomotives and that each of the loco drivers drives the big as well as the small locomotives. The result, therefore, is that each loco driver is proficient and capable of driving the bigger locomotives and would, therefore, be entitled to be paid the category VII wages. I, therefore, direct that all the loco drivers be classified in Category VII and should be paid wage in that scale and I award accordingly.

17. The only other question that remains to be determined is the date from which the directions given by me above should come into force.

18. As I have stated earlier, Government by notification dated 6th November, 1962 made under section 10(1)(d) has amended the original order by directing that the words "after 3rd November 1961", appearing in the schedule to that order, should be deleted. The company by a written statement has urged that the amending order is not legal and valid and that Government had no power to make it during the pendency of the reference before the Tribunal and its learned Counsel Shri P. P. Khambatta, in support of this contention has relied upon the judgment of the Hon'ble Supreme Court in the case of the State of Bihar and Ganguly (D.N.) and others (1958 II LLJ, p. 634). He has, in support of his contention that once a reference is made to a Tribunal for adjudication of an industrial dispute under section 10(1)(d), the Government thereafter has no power to amend the order, relied upon the following passage in the judgment of the Supreme Court in Ganguli's case:—

"This provision shows that after the dispute is referred to the Tribunal, during the continuance of the reference proceedings, it is the tribunal which is seized of the dispute and which can exercise jurisdiction in respect of it. The appropriate Government can act in respect of a reference pending adjudication before a tribunal only under section 10(5) of the Act which authorizes it subject to the conditioned in the said provision. It would therefore be reasonable to hold that except for cases falling under section 10(5) the appropriate Government stands outside the reference proceedings which are under the control and jurisdiction of the tribunal itself."

He has also relied upon a passage in that judgment by which their Lordships held that a power in Government to cancel or supersede a reference cannot be held to be implied under the provisions of section 21 of the General Clauses Act, 1897 (X of 1897), and the observation of their Lordships that upon an examination of the scheme of the Industrial Disputes Act, its object and its relevant and material provisions, the rule of construction enunciated by section 21 of the General Clauses Act cannot apply. In my opinion there is no substance in this contention of Shri Khambatta as in Ganguli's case the Government had not amended its original order of reference, but had completely superseded or wiped it out by a subsequent order. Their Lordships in Ganguli's case, in referring to a Madras High Court's judgment relied upon by the appellants had observed:—

"This decision would not assist the appellant because in the present case we are not considering the power of the Government to amend or add to a reference made under Section 10(1). Our present decision is confined to the narrow question as to whether an order of reference made by the appropriate Government under Section 10(1) can be subsequently cancelled or superseded by it." (underlining mine).

It is, therefore, clear that the decision in Ganguli's case does not cover the case of a subsequent order of amendment. Shri Khambatta has also relied upon a judgment of the Calcutta High Court in the case of Kesoram Cotton Mills Ltd., and Second Labour Court and others (Issue dated 15th October 1962 of the Indian

Factories and Labour Report, Vol. V, page 308) where on an order of corrigendum issued by Government to a reference already made, including further names to the list of workmen mentioned in the original order of reference, it was held that section 10(5) of the Industrial Disputes Act contemplates some correction but that if the workmen whose names were subsequently added did not constitute an establishment or group or class of establishment of a similar nature as the petitioner company, then such names could not be added to the reference by the State Government in exercise of its powers under section 10(5) of the Act. I cannot see how this judgment helps Shri Khambatta to support his contention, as in this case the decision centres round the construction of sub-section (5) of section 10. In the instant case the amendment is not under the provisions of section 10(5) of the Act.

19. Moreover, I find that in the case of Mangharam J. B. & Co. and Kher (K.B.) and others (1957 1 LLJ. pp. 76-77), the Madhya Bharat High Court held that the language of section 10(4) was wide enough to permit the appropriate Government to amend a reference already made and that if an additional reference could be made there is no reason why an amendment of the original reference should not be allowed. In arriving at this decision the Madhya Bharat High Court followed a decision of the Madras High Court on the same point reported in A.I.R. 1953 Madras page 45. I also find that in the case of the Jaipur Spinning and Weaving Mills Ltd., and State of Rajasthan and two others (1961 1 LLJ. pp. 747 to 753) a Division Bench of the Rajasthan High Court (Sri Sarjoo Prasad C.J. and Sri B. P. Beri J.) held that where the subsequent notification is not in substance a notification superseding the previous reference, but if it only amplified and supplemented a previous order of reference, it would be a valid order. Their Lordships further held that where the Government by a subsequent notification seeks to amend and supplement the previous notification it must be held not to have contravened or violated any of the provisions of the Industrial Disputes Act. Their Lordships observed that if under the law it was open to the Government to issue a fresh notification amending the points in dispute in the previous case or supplementing certain points for the decision of the tribunal, it could not be held that the procedure followed in the instant case was a violation of law or unwarranted by law. On these facts their Lordships of the Rajasthan High Court distinguished that case from the facts in Ganguli's case inasmuch as in Ganguli's case, "the previous reference had been completely obliterated or wiped out".

20. In my opinion, in this case, as the Government has only amended the original order and has not completely obliterated or wiped out the earlier order, the decision in Ganguli's case does not apply. By the amendment, the Government only removed the time limit placed in the earlier notification from which the Award of the Tribunal could be made operative. In doing so, to use the language of the judgment of the Rajasthan High Court, Government only "amplified and supplemented" the previous order of reference. I therefore hold that the amending order dated 6th November 1962 is legal and valid.

21. I have heard the submissions of the parties on the date from which the directions given by me should be made operative. Considering all the facts and circumstances of the case, I think that the award I have made should be made retrospective from the date each of the present loco drivers was appointed as loco driver. In the result I award that the Loco Drivers will be entitled to be placed at category VII and to the consequential benefit of wages of that category including dearness allowance, bonus, etc., from the date of their appointment as Loco Drivers. I further direct that the amounts found due to them should be paid to them within a month of the Award herein becoming enforceable.

22. Considering that the Union has succeeded, I think it is a fit case where costs should be awarded and I direct the company to pay Rs. 100 - as costs to the Union, within a month from the date this award becomes enforceable.

(Sd.) SALIM M. MERCHANT,

Presiding Officer,
Central Government Industrial Tribunal,
Bombay.

New Delhi, the 22nd February 1963

S.O. 567.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Patna, in the industrial dispute between the employers in relation to the Khas Karanpura Colliery and their workmen.

BEFORE SHRI H. K. CHAUDHURI, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, PATNA.

REFERENCE No. 29(C) of 1962.

Employers in relation to the Khas Karanpura Colliery and their workmen.

For the Employers—None.

For the Workmen—Shri T. K. Das, Advocate.

AWARD

Dated the 13th February, 1963.

By Government of India, Ministry of Labour & Employment order dated the 8th November, 1962 this industrial dispute between the employers in relation to the Khas Karanpura Colliery, P.O. Patraru, Hazaribagh, Bihar and their workmen has been referred to this Tribunal for adjudication u/s 7A and Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947). The specific matter in dispute is as follows:—

Whether the management of the Khas Karanpura Colliery was justified in designating Shri Martin Topo as Clerk Grade III under the Award of the All India Industrial Tribunal (Colliery Disputes) and if not, to what relief is he entitled and from which date?

2. Martin Topo was appointed as a clerk in the Khas Karanpura Colliery on the 5th January, 1955. The award of the All India Industrial Tribunal (Colliery Disputes) was published on the 26th May, 1956. The Hazaribagh Zilla Kendria Kolla Mazdoor Sangh, P.O. Patraru raised an industrial dispute before the Conciliation Officer (Central) Hazaribagh demanding that the clerk aforesaid should have been placed in Grade II as specified in Appendix XVI of the Coal Award with effect from 26th May, 1956 by virtue of the duties performed by him since then and not in grade III as has been done by the management. In the conciliation proceedings held on the 20th January, 1962 the management agreed to promote Shri Topo as a clerk Gr II with effect from that date but were not agreeable to do so with effect from 26th May, 1956 as demanded by the Sangh. As the Sangh insisted that the promotion should have retrospective effect from 26th May, 1956 the conciliation failed and eventually the dispute was referred to this Tribunal.

3. The contention of the union is that on the implementation of the modified Coal Award 1956 Shri Topo was wrongly designated as clerk grade III. It is urged that in view of the duties performed by him, a list of which was submitted along with the statement of demands dated 16th July 1961, before the Conciliation Officer, he should have been placed in Grade II.

4. The management on the other hand contends that the workman was correctly placed in grade III and as he had acquiesced in this classification the present demand is not maintainable.

5. At the hearing Shri Martin Topo examined himself and another witness. The management did not enter appearance. The evidence adduced on behalf of the clerk, therefore, stands un rebutted. The copy of the conciliation proceedings show that the management had agreed to put Shri Martin Topo in Grade II though with effect from 20th January 1962. According to the evidence led at the hearing Shri Topo was appointed as an attendance clerk on 5th January 1955. After a period of 6 months he also began to work as provident fund clerk and as bonus clerk. He was also put in charge of preparing coal and other kinds of bills. According to the coal award the posts of attendance clerk, bonus clerk and bill clerk fall in grade II. There was no justification, therefore, for placing Shri Topo in Gr. III when the award was implemented. His claim that he should have been put in Grade II with effect from 26th May, 1956 is correct and must be upheld. I hold that the management of Khas Karanpura Colliery was not justified in designating Shri Martin Topo as clerk grade III under the award of the All India

Industrial Tribunal (Colliery Disputes). I further hold that he should have been placed in Grade II with effect from 26th May, 1956

6. I give my award accordingly. The cost of this proceeding, which I assess at Rs. 100/-, shall be paid by the management to the workman.

H. K. CHAUDHURI,
Presiding Officer,
Central Govt. Industrial Tribunal,
Patna.
13-2-1963.

Recorded at my dictation &
corrected by me.

H. K. CHAUDHURI,
P.O., Central Govt. I. T., Patna,
13-2-1963.

[No. 2/28/62-LRII.]

S.O 568.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Samla Collieries Limited and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA.

REFERENCE No. 29 OF 1962.

PARTIES:

Employers in relation to the Samla Collieries Limited,

AND

Their workmen.

PRESENT:

Shri L. P. Dave—*Presiding Officer*.

APPEARANCES:

On behalf of the employers—Shri M. K. Mukherjee, Advocate.

On behalf of the workmen—Shri Lenin Roy, Advocate.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

The Government of India, Ministry of Labour and Employment, by their order No. 2/48/62-LRII, dated 9th July, 1962, have referred the industrial dispute existing between the employers in relation to the Samla Collieries Limited and their workmen for adjudication to this Tribunal. The dispute referred for adjudication is in respect of the following matter:—

“Whether the dismissal of Shri Ramadhar Singh, Loading clerk and Shri Lakhan Mahato, Pick-miner, by the Samla Collieries Limited, Post Office—Pandabeshwar, District Burdwan, West Bengal, was justified? If not, to what relief are they entitled?”

2. The present dispute relates to dismissal of two workmen. One of them was a loading clerk in the Kendra colliery and the other a pick-miner in the Ramnagar colliery, both of which collieries belong to the Samla Collieries Limited. The former namely, Shri Ramadhar Singh, was dismissed by a letter dated 26th March, 1962, while the latter was dismissed by a letter dated 12th February, 1962. The workmen urge that the dismissals were not justified; that they were not bonafide and also that they were actuated by ulterior motives and amounted to victimisation for Trade Union activities. They also urge that the dismissals were arbitrary and in contravention of the principles of natural justice. On the other hand, the management urge that both the dismissals were proper and were made as a result of findings of departmental enquiries. The workmen urge that the departmental enquiries were not properly held and the principles of natural justice

were not followed at either enquiry. It will be convenient to consider the cases of the two workmen separately.

3. Before going to the merits of the case, I may mention that one of the points urged by the workmen is that the dismissals of both Ramadhar Singh and Lakhman Mahato were illegal because the orders of dismissal were passed while certain proceedings were pending either before the Conciliation Officer or before this Tribunal. Assuming that some proceedings were pending either before this Tribunal or before the Conciliation Officer, it would not make the dismissals of the two workmen *per se* illegal. Sub-section (1) of Section 33 of the Industrial Disputes Act lays down *inter alia* that during the pendency of any conciliation proceedings before a Conciliation Officer or of any proceeding before a Tribunal in respect of an industrial dispute, no employer shall for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workman concerned in such dispute save with the express permission in writing of the authority before which the proceeding is pending. Sub-section (2) lays down that during the pendency of any such proceeding in respect of an industrial dispute, the employer may, for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer. Section 33A lays down that when an employer contravenes the provisions of section 33 during the pendency of proceedings before a Tribunal, any employee aggrieved by such contravention may make a complaint in writing in the prescribed manner to such Tribunal and on receipt of such complaint that Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it and shall submit its award to the appropriate Government and the provisions of the Act would apply accordingly.

4. In other words, employers are prohibited from dismissing a workman for misconduct connected with a pending proceedings, without the express permission in writing from the authority before which the dispute is pending. They are however permitted to dismiss a workman for misconduct not connected with the dispute, provided they pay him a month's wage and make application to the authority for approval of their action. If however, the employer contravenes the above provisions, the dismissal would not be *ipso facto* illegal or inoperative, but it would only give the workman concerned a right to make an application to the Tribunal and the Tribunal would treat that complaint as a Reference, decide it as such and pass an award and submit it to the Government. In the normal course, if a workman is dismissed he has no right to approach a Tribunal. The right is given to the workmen as a whole, who can move the Government and it will be the discretion of the Government either to make a reference to a Tribunal or refuse to make a reference. In case however where there is a dismissal in contravention of Section 33 of the Industrial Disputes Act, a right is given to the workman concerned who can directly approach the Tribunal with a complaint which will be treated as a reference and proceeded with as such.

5. In the present case, whether the employers contravened the provisions of Section 33 or not would make no difference. Even if they have contravened the provisions, the dismissal would not *ipso facto* be illegal but the workman concerned could have approached the Tribunal with a complaint under Section 33A and the Tribunal would have proceeded with it as if it was a reference. The workman did not do so; but the Union took up the matter with the Government and the Government have made a reference. The Tribunal is thus seized of the matter as a reference and has heard it as such and the question whether there was a contravention of Section 33 or not has thus no importance.

6. Coming to the facts of the case, I shall first take up the case of loading-clerk Ramadhar Singh. The following facts are not in dispute. He has been working in the colliery for more than fifteen years. He was served with an order on 2nd February, 1962 mentioning that due to organisational difficulties the management did not find it possible to post him in the dispatch Department and hence for the present they directed him for the purchase of timber and bamboo matting from Panposh to Sambalpur. He was asked to proceed forthwith and report rates from various stations and to await further instructions at Sambalpur. Accordingly this clerk left the colliery and joined duty at Sambalpur on or about 5th February, 1962. On 14th February, 1962, he received a wire from the management asking him to return to the colliery which he did on the next day. On 5th March, 1962 he was served with a chargesheet alleging that he had left work without permission on 2nd March, 1962 and 3rd March, 1962 and also that he had left the colliery without prior intimation. It appears that he replied to this chargesheet on that

day or the next day. On 15th March, 1962 a letter was served on him mentioning that he was called back in connection with the election and that he should now proceed on his duty for purchasing timber from Sambalpur and other places by that very day's evening train and report his arrival. He immediately replied to this letter stating that he was on controlled diet due to gastric trouble and that it was difficult or rather impossible to get this sort of diet in journey and at out places. He also mentioned that he was undergoing treatment in the Kendra hospital and requested the Agent of the colliery to consider his case. He lastly mentioned that he had never refused to do any work and that the management would appreciate his difficulties and would suspend the order till his full recovery. On 16th, this letter was sent to the Medical Officer of the colliery for his comments and the Medical Officer's comments were as under:—

"He has never reported gastric trouble and his condition of health is normal and he is fit to go out".

Immediately, the Agent wrote to the clerk that his letter of the 15th was considered by him as an excuse for refusing work allotted to him; that the Medical Officer reported that he had never complained of gastric trouble and that his general appearance of health did not indicate any serious ailment prohibiting travelling. The Agent therefore regretted that he could not entertain the clerk's application and required him to proceed forthwith to his duty falling which the management would be compelled to take action against him. On receipt of this letter, the clerk gave a reply on 17th March, 1962, which reply has not been produced before me; but it appears that in that letter he had stated that he would be proceeding to join his duties on 22nd March, 1962. On the 19th March, the management wrote a letter to the clerk, which is said to be a letter of charge. It was mentioned therein that the workman was asked to go back to his place of work at Sambalpur but instead of acting in obedience to that order he wrote a letter saying that due to gastric trouble he was under controlled diet etc.; that on receipt of this letter the Medical Officer's comments were called for; that the Medical Officer said that he never reported gastric trouble and the condition of his health was normal and he was fit to go out. The letter went on to say that the workman's statements regarding his gastric trouble and treatment and controlled diet had not thus been supported by the Medical Officer and therefore they appeared to be a mere excuse for not complying with the order to him to proceed to his place of work. The letter further mentioned that after this another letter was issued on 16th March, 1962, in which he was again asked to proceed to his place of work but instead of doing so he wrote a letter on 17th March, 1962, intimating that he would proceed on 22nd March, 1962. In the circumstances, it was alleged that the workman was guilty of disobedience of orders and insubordination and also of absence from duty without leave and without any reasonable cause. It was further alleged that he was also guilty of fraud and dishonesty as he had signed the attendance register without reporting for duty and he was thus liable to be dismissed or punished otherwise and he was asked to show cause within 24 hours as to why disciplinary action should not be taken against him. The workman replied to this on 20th March, 1962 mentioning that he was surprised to receive the letter; that it appeared that the management were disbelieving his statement about his suffering from gastric trouble and about the treatment of the Medical Officer and that they appeared to be doing so on the alleged statement of Medical Officer. The workman further said that he had reported his sickness to the Medical Officer on 5th March, 1962, for which a ticket was given to him and medical advice was also written thereon; that he was examined by the Chief Medical Officer who diagnosed the disease as gastritis; that the Medical Officer gave medical advice and asked him to have controlled diet and prescribed suitable medicines; that he had got this ticket with him which he could produce when called for and he wondered that the Medical Officer contradicted the prescription written in his own hand-writing. The workman then said in his reply that he was now in a position to go outside but that it was not possible for him to get prescribed diet in the outside and hence it was not possible to comply with the instructions mentioned in the management's letter. The workman also said that he did not offer to proceed to Sambalpur unconditionally but that in his letter of 17th March, 1962, he had stated that if the management wanted to take the risk of his life he would proceed to outside place on 22nd March, 1962. The workman however found from the management's letter of 19th March, 1962 that instead of taking a risk on his life, they were disbelieving his statement and hence it was not possible for him to move anywhere unless he was physically fit for the same. The reply went to say that the allegation against him was baseless and without foundation; that the charge of fraud and dishonesty was objectionable and not motivated; that he had never absented himself from duty without leave nor

violated any lawful order; that he had daily reported for duty and signed the attendance register as per usual office order and waited for instruction for specific allotment of job to him; that instead of deputing him for any job, the management had brought these allegations which he apprehended had been done with ulterior motives only to punish him for his Trade Union activities.

7. After this, another letter dated 20th March, 1962, was served by the management on the workman. According to the workman this letter was really issued on 23rd March, 1962. The letter mentioned that on 19th March, 1962 just before 9 a.m. the clerk went with an application direct to the Agent without any remark from the department and that due to the absence of any remarks, he was not granted permission to leave the colliery premises and in spite of this he left the colliery and he was asked to give his explanation about this. The letter further mentioned that his explanation dated 23rd March, 1962, had been found unsatisfactory (this reply was to the letter of charge dated 19th March, 1962) and that an enquiry would be held into the above on 24th March, 1962 by the Welfare Officer, Mr. V. K. Srivastava at 8 a.m. He was also asked to note that if he failed to attend the enquiry, the matter would be enquired into ex-parte.

8. On 24th March, 1962, Shri Srivastava held an enquiry which is challenged by the workman as being no enquiry at all or at any rate being an enquiry which was held without any regard to the principles of natural justice. After completing the so-called enquiry, the Welfare Officer Shri Srivastava made a report on the very day holding that the charges levelled in the letters of 19th March 1962, and 20th March, 1962 were proved and that the clerk's explanation was unsatisfactory. The report further mentioned that the clerk's previous record was also unsatisfactory. On 26th March, 1962, the management passed an order dismissing the workman. The letter of dismissal referred to the chargesheet dated 5th March, 1962 and letters of charge dated 19th March, 1962 and 20th March, 1962 and mentioned that on enquiry the charges had been held proved and so he was dismissed.

9. As I mentioned earlier, the chargesheet dated 5th March, 1962 mentioned that the clerk had left work on 2nd March, 1962 and 3rd March, 1962 without permission and also left the colliery without prior intimation. In his reply to this chargesheet, the workman had said that so far as 2nd March, 1962 is concerned, he had left the colliery at 11-30 a.m. with the permission of his immediate Superior and that on 3rd March, 1962 he was on work for the entire day and that the allegations against him were false. In his deposition before the Tribunal, the clerk has said that no enquiry was held regarding this chargesheet. There is nothing to contradict this statement. Though the management have produced some papers showing that the Enquiry Officer had recorded statements of two persons (witnesses) of the clerk concerned; but the Enquiry Officer Shri Srivastava who has been examined as a witness has not referred to this enquiry in his deposition at all. There is nothing to show that the clerk was given due intimation before holding the enquiry, or to show that the statements of the witnesses were recorded in his presence, or that he was given opportunity to cross-examine them or that he was given any opportunity to examine witness on his behalf. I have gone through the statements which purport to have been recorded on 12th March, 1962. One of them is of the Immediate Superior of the clerk and he has stated therein that the clerk had requested him for leave on 2nd March, 1962. In his statement, the clerk has specifically mentioned the place where he worked on 3rd March, 1962. His statement does not show whether he was asked if he wanted to examine any witness. I am thus not satisfied that any enquiry was held at all regarding this chargesheet, much less that the said enquiry was proper or that the workman had an opportunity of cross-examining the witnesses or of examining witnesses on his behalf. He could not be held about the allegations made in this chargesheet, and could not be dismissed on that basis.

10. The other two grounds on which this clerk has been dismissed are the grounds mentioned in the two letters of charge dated 19th March, 1962 and 20th March, 1962. So far as the first of them is concerned, it refers to the clerk's not carrying out an order of transfer and he has been held guilty of disobedience of the order of insubordination, of absence from duty without leave and without reasonable cause and of fraud and dishonesty for signing the attendance register without reporting for duty. To understand this charge, a few facts which led to it may be stated here.

11. There was a strike at the Ramnagar colliery which is one of the collieries in the group belonging to Samla Collieries and which is near the Kendra colliery.

There was a settlement of this strike on 31st January, 1962. The clerk, Ramadhar Singh, is the Secretary of the local branch of Colliery Mazdoor Union working in this group of collieries. This branch came into existence in 1957 or 1958, and this clerk has been the Secretary thereof since 1960. Though an attempt was made in his cross-examination to show that the management did not know either about this union or about this clerk being the Secretary thereof, it does appear from the evidence of Shri Srivastava who was Labour Welfare Officer of this group of collieries from January 1960 to May, 1962, that Ramadhar Singh was an important Union leader in the colliery and that he was taking keen interest in matters relating to it.

12. At this stage, I may also mention that in their written statement, the employers had alleged that the dispute raised by the Colliery Mazdoor Union is not real, genuine or *bona fide*, since the "Union does not normally function in the colliery nor represent the majority of the workmen of the colliery". This allegation does not appear to be not only not true but I think it is false to knowledge of the employers. When there was a strike at the colliery on 30th January, 1962, it was, as I said above, settled on 31st January, 1962 and this settlement was arrived at as a result of discussion held by the Conciliation Officer with the representatives of the Management and the Colliery Mazdoor Union and it was agreed that the matter pertaining to the suspension of some workers would be referred to the Conciliation Officer and that till the conclusion of this conciliation proceedings, the management would not proceed with the enquiry against those workmen. The Union agreed to advise the workers to resume work immediately. This clearly shows that the union must have quite a good following in the colliery and that is why the management must have entered into this agreement. The management must have felt that this union could persuade the workers to resume work. It further appears that there were some other industrial disputes between the management and their workmen and they were referred to this Tribunal in the past. One of them was the subject matter of Reference No. 12 of 1961. An award in that case was passed by the Tribunal in terms of a compromise entered into by the Management and (the General Secretary of) the Colliery Mazdoor Union. Another was the subject matter of Reference No. 25 of 1962, where the Colliery Mazdoor Union represented workmen. In the present case also, when making this reference, the Government has recognised the General Secretary of the Colliery Mazdoor Union as a party to the present dispute. Thus, the Colliery Mazdoor Union appears to be normally functioning in the colliery and appears to be representing quite a good number of workmen and this fact has been accepted by the Management at least on two previous occasions and still they challenged it in their written statement.

13. Proceeding further with the facts of the case, within two days of the strike being called off on 31st January 1962, the management wrote a letter (on 2nd February 1962) transferring the clerk Ramadhar Singh to Sambalpur. This letter though issued on 2nd February 1962 was typed as if it was written on 2nd January 1962 probably to show that the transfer was contemplated long before the strike. It is, however, not in dispute that the letter was sent on 2nd February 1962. I shall come to this letter later on. Suffice it here to say that the clerk carried out the transfer and went to Sambalpur and worked there. His duties involved touring because he had to go from place to place and enquire about the rates of timber and bamboo matting. On or about 14th February, 1962 he received an wire asking him to return to the colliery and he thereupon did so.

14. The next important event appears to be holding a meeting of the workmen of 4th March 1962 which is said to have been addressed by the clerk. For this we have the evidence of the clerk concerned which evidence is not rebutted by any other evidence. It was suggested that this allegation of the clerk was an afterthought, having been made by him for the first time in his deposition and that no such allegation was made in the written statement of the workmen. It is true that no such allegation is made in the written statement; but that does not necessarily mean that the allegation is an afterthought. I find that this allegation had been made before the Conciliation Officer; and it shows that it is not being made for the first time only in his deposition. It was urged by the workmen that immediately on the clerk addressing the meeting of the 4th March, he was served with a false chargesheet on 5th March, 1962, followed up by a letter of transfer dated 15th March 1962. This letter of transfer mentions that the clerk had been called back in connection with the election and he was asked to proceed to Sambalpur by that day's evening train and to report his arrival. The clerk replied to this letter, stating that he was suffering from gastric trouble. There was then an exchange of some letters which I have already referred to and which I shall refer to later on also. Ultimately on 19th March,

1962 he was served with a letter of charge which charge is one of the reasons of his dismissal.

15. The management allege that an enquiry was duly held in respect of this charge on 24th March, 1962 by the Labour Welfare Officer and the charge was held proved against him. The law on the point is very well settled. If a person is dismissed by the Management as a result of a departmental enquiry, the Tribunal would not interfere on facts because the Tribunal is not sitting in appeal against the finding of the Enquiry Officer. The Tribunal would, however, interfere if there is a want of good faith or where there is a victimisation or unfair labour practice, or where the Management has been guilty of a basic error or violation of principles of natural justice or where the finding is found on materials completely baseless or perverse. It has been held that in dealing with a matter of this type, the Tribunal must enquire whether the order of dismissal has been passed *mala fide* and with improper motive or is the result of a desire to victimise the workman and if the answer to the question is in favour of the workman, the Tribunal can and should set aside the said order. It has also been held that if a proper charge has been framed and a proper enquiry has been held by the employers, the Tribunal can interfere if the conclusion is perverse or is not supported by evidence. Similarly, if the trial has been conducted unfairly or in violation of the principles of natural justice, interference by the Tribunal would be justified, but it would not open to the Tribunal to sit in appeal over the conclusions of fact recorded by the domestic enquiry and it would not examine the evidence adduced in the case or consider the probabilities or examine the reliability of the two rival versions or come to a conclusion that the version of the workman should be preferred to that of the employer; because all this could be done only by a Court of Appeal and the Tribunal is not sitting in appeal against the judgment of the domestic tribunal.

16. In the present case, it has been urged that no proper enquiry was held by the Enquiry Officer. In his deposition, the clerk has stated that on 24th March, 1962 the Labour Welfare Officer called him and put some questions to him; that his replies were recorded and his signature taken thereon; that no one was then present and that no witness was examined in his presence. In cross-examination, it was suggested to him that the statement of Dr. Bannerjee was recorded in his presence and he denied this fact. In his deposition, the Enquiry Officer has stated that on the day of enquiry he commenced the enquiry a few minutes before 8 A.M. when the two doctors, Dr. Bannerjee and Dr. Paul, came to his office; that at that time Ramadhar Singh was not present; that he (i.e. the Enquiry Officer) showed their reports to the two doctors and asked them whether they were correct and they said that they were correct; he asked them to write down below the reports that they confirmed them. They did so and left. Thereafter Ramadhar Singh came there. The Enquiry Officer questioned him and at that time Ramadhar Singh produced a ticket which had been given to him by the doctors and which contained the prescription, etc., in the hand-writing of the doctors. The Enquiry Officer then said that he asked Ramadhar Singh whether he wanted to put any question to the doctors or anyone-else and he replied in the negative and he thereupon closed the enquiry.

17. Apart from the evidence of the Enquiry Officer, we have the evidence of one of the doctors, namely Dr. Bannerjee. It may be noted here that Dr. Bannerjee's evidence was recorded on 29th December, 1962 just after the evidence of Ramadhar Singh was completed so that Dr. Bannerjee may not have to be detained. The Enquiry Officer (Shri Srivastava) was examined on 31st December, 1962, that is, two days after Ramadhar Singh and Dr. Bannerjee were examined. As I said above, it was suggested in the cross-examination of Ramadhar Singh that Dr. Bannerjee's evidence was recorded by the Welfare Officer in his presence and he denied this. In his deposition, Dr. Bannerjee said that no one was present when his statement was recorded. Probably because of this, we find that the Enquiry Officer has now said that Dr. Bannerjee and Dr. Paul had come to him earlier and that he examined them and allowed them to go and that thereafter Ramadhar Singh came there and he asked Ramadhar Singh whether he wanted to put any questions to the two doctors. If we read the Enquiry Officer's report, we would find that what he then mentioned was that Dr. Bannerjee had stated a particular thing and that Dr. Paul also had stated a particular thing but he has not stated that Dr. Bannerjee and Dr. Paul had come earlier and he had questioned them before Ramadhar appeared there. Apart from this, the statement of Ramadhar Singh recorded by the Enquiry Officer also does not support this contention. The statement contains the replies to several questions put to him and the last question was "Have you to say anything more in your defence" and he replied that he had already stated all in his explanation submitted. He

was then asked whether he had to ask any questions to any one and he replied "I have to ask no question". In his deposition, the Enquiry Officer at first said that all the questions which he had put to Ramadhar were not completely recorded in one or two instance and that only a summary thereof was written down. On being further questioned, he said that in the question about Ramadhar having done no work after 15th March 1962, he had not noted the fact that he had shown the attendance register at that time and that question was that far incompletely recorded and further that it was the only question which was not completely recorded. He also said that all other questions had been completely recorded by him as put by him to Ramadhar and Ramadhar's replies were written down as stated by him. He then said that he had specifically asked Ramadhar Singh whether he wanted to cross-examine the two doctors. For this he relied on the last question; this question is recorded as "Have you to ask any question from any one". The Enquiry Officer had said that the word "anyone" included the doctors and hence he did not write the word 'doctors' in that question. As an Officer holding an enquiry Shri Srivastava must be knowing that the statement of the two doctors were important and actually he has relied on them to hold Ramadhar guilty. The Enquiry Officer must be knowing that Ramadhar had a right to cross-examine the doctors and he was therefore bound to ask Ramadhar whether he wanted to put any question to the two doctors. Actually it was the duty of the Enquiry Officer to have recorded the statement of the two doctors in the presence of Ramadhar. At any rate, the statements of the doctors should have been read over to Ramadhar. The statement of Ramadhar recorded by the Enquiry Officer, however, does not show that the statements of the doctors had been read over to him. Specific questions should have been asked to him whether he wanted to put any question to the doctors especially when the doctors were not examined in his presence; but that was not done. The last question would at best mean that he was asked whether he wanted to examine any witness in defence and it could at best be said that he had been given an opportunity to examine witnesses on his behalf. He, however, had not the opportunity of putting questions to the two doctors.

18. In this connection, it is very important to note that the statement of the two doctors were very important and their cross-examination was vital to the interests of Ramadhar. When Ramadhar was ordered on 15th March, 1962 to proceed immediately to Sambalpur, he replied on the very day stating that he was on controlled diet for gastric trouble and that he was under the treatment of the kendra hospital. This letter of his was forwarded to the Medical Officer for comments and Dr. Paul is said to have made the following endorsement on it "He has never reported gastric troubles and his condition of health is normal and he is fit to go out". The management thereupon wrote a letter to Ramadhar on 16th March, 1962 mentioning that the Medical Officer reported that he had not complained of gastric trouble, etc. In the letter of charge dated 19th March, 1962 also, the management stated that the Medical Officer had said that Ramadhar had never reported gastric trouble and that his condition of health was normal and he was fit to go out. Ramadhar replied to these two letters on 17th March, 1962 and 20th March, 1962 respectively. We do not know what he exactly wrote in the letter of 17th March, 1962; but in the letter of 20th March, 1962 he specifically mentioned not only the date on which he was examined by the colliery doctor but also that the doctor had diagnosed the disease as gastritis and had written the same in the ticket and had also prescribed suitable medicines; and further that Ramadhar had got the ticket with him; and he was wondering how the Medical Officer contradicted the prescription written in his own handwriting.

19. Admittedly Ramadhar produced the ticket before the Enquiry Officer who put his signature on it and returned it to Ramadhar. That ticket was in the hand-writing of Dr. Paul and one or two words were in the hand-writing of Dr. Bannerjee. In spite of this, Dr. Paul is alleged to have informed the management on 16th March 1962 that Ramadhar had never reported gastric trouble and that his condition of health was normal and he was fit to go out. The ticket shows that Ramadhar had been examined on 5th March 1962 and again on 15th March 1962 and that he was suffering from gastritis. If Ramadhar had the opportunity of cross-examining Dr. Paul, he would have confronted him with the above ticket which was in the handwriting of Dr. Paul and Dr. Paul would probably have been forced to admit that his report of 16th March 1962 was not correct. I would go a step further and say that it was the duty of Shri Srivastava who was not only the Enquiry Officer but also the Labour Welfare Officer and as such supposed to be looking after the welfare of the labour, to have recalled Dr. Paul after he saw this ticket and to have himself questioned him about it. Not only does he not appear to have done his duty but appears to have acted as a tool in the hands

of the management. I find from the evidence of Dr. Bannerjee that the Welfare Officer (who was also the Enquiry Officer) had gone to Dr. Bannerjee on 20th March 1962 and obtained his statement. This shows that the Enquiry Officer was taking undue interest in the matter which probably was not his normal duty to do. At any rate, having tried to obtain evidence against Ramadhar before he started the enquiry, he was not a proper and fit person to hold the enquiry because he was already biased.

20. The bias of the Enquiry Officer is clear from the questions he has put to Ramadhar Singh. One question he has put to him was "did you go to Calcutta within a fortnight" and Ramadhar replied in the affirmative. Then he was asked whether he cycled down to Pandabeswar and neighbouring places recently and the reply was "yes—on 3rd March 1962". In his report the Enquiry Officer has referred to these statements as admissions meaning thereby that he was in a fit condition to carry out the transfer. It may be noted firstly that Ramadhar has never said that he could not go to Sambalpur but all that he said was that it would be difficult for him to obtain controlled diet at Sambalpur or while on tour and he therefore requested for the postponement of the transfer. Secondly, it may be remembered that the above replies were given by Ramadhar on 24th March 1962 and all that his statements would mean was that he had gone on bicycle to Pandabeswar on 3rd March 1962 and to Calcutta round about 9th March 1962. Pandabeswar is a distance of about two to three miles and if a person could go on bicycle to that place on 3rd March 1962, it would not mean that his allegation that he was suffering from gastritis from about 5th March 1962 was not correct. Similarly, because he could go to Calcutta, it did not also mean that his allegations of gastritis was not correct. I may also point out that the fact that he had gastritis is not in dispute being admitted by Dr. Bannerjee both in his deposition and in his earlier statement.

21. If Ramadhar had the opportunity to cross-examine Dr. Bannerjee, he could have obtained the same replies from him which Dr. Bannerjee has now given before this Tribunal. Among other things, Dr. Bannerjee has said that he was never told that Ramadhar would be required to do touring or that he may have to go to jungle areas. He has also said that if touring was long, it might do him harm but otherwise if he controlled the diet, it may not do him harm. Dr. Bannerjee has then also said that if he had been told that Ramadhar would be required to do some touring he might have advised him not to do so for sometime, (as) he knew that when on touring a person may not be able to get suitable diet as advised by him.

22. I have therefore no hesitation in holding that no proper enquiry was held by the Enquiry Officer. He did not record the statements of Dr. Bannerjee or Dr. Paul but only took a sort of written statement confirming their previous statements. He did so in the absence of Ramadhar. He did not read out these statements to Ramadhar nor did he give any opportunity to him to cross-examine these witnesses which has led to gross mis-carriage of justice. I also think that Shri Srivastava was not a proper person to hold the enquiry as he had already been biased.

23. Even after ignoring the finding of the enquiry, the Tribunal may hold the dismissal justified if on merits, it is satisfied that the workman was guilty of the charges. I must however say that not only am I not satisfied about the correctness of the enquiry findings but in my opinion it is a clear case of victimisation and unfair labour practice and I feel that the dismissal order has been passed to victimise the clerk for his Trade Union activities because he was the General Secretary of the local Union.

24. As I mentioned above, the clerk has been working here for quite a number of years, but it was only within two days of the strike that the management thought of transferring him. The wording of that letter of transfer discloses what was in the mind of the management. He was then recalled by a telegram. It has been alleged in the letter of 15th March that he was called back in connection with the election, but there is not iota of evidence to show that this allegation is true. There is nothing to show that he was entrusted with any particular work connected with the election. The management were not directly interested in the election and I do not think it likely that they would have called him back only for the purpose of election. At any rate, the election was over in February and still it was only on 15th March 1962 that the Management thought of sending him back to Sambalpur; and then they wanted that he should leave the colliery by *that very day's evening train* and to report his arrival there. The management thus wanted to make sure that Ramadhar went away immediately to a place far

away from his Trade Union activities. Immediately on receipt of this letter, Ramadhar informed the management that he was on controlled diet due to gas trouble and all that he requested was to suspend the order of transfer till his full recovery. The management sent this letter on 16th March 1962 to the Medical Officer for comments and the Medical Officer gave his comments on that very day and the management thereupon wrote a letter on that very day that they could not entertain his application and required Ramadhar to proceed forthwith on his duties failing which the management would be compelled to take action against him. To this, the workman replied on 17th which reply, I might repeat, is not before the Tribunal but which contained a statement that he would leave on 22nd. The management were not satisfied with this and issued a letter of charge to him on the 19th. He replied to this on the 20th and it is probably after the reply was received that the Welfare Officer contacted Dr. Bannerjee and obtained a statement from him. Therein Dr. Bannerjee had stated that Ramadhar was suffering from mild type of gastritis and that his condition was not at all unsuitable for his doing normal avocation even at outstation. It may be remembered that Dr. Bannerjee was not informed that Ramadhar might have to do touring or that he may have to be required to work in the forest areas. All that Dr. Bannerjee said was that he could do his normal work even at outstation but this did not mean that he could do touring and Dr. Bannerjee in his statement before the Tribunal has stated that if he knew that Ramadhar was required to do touring, he would have asked him not to do so for sometime. This clearly shows that the management were anxious to find fault with Ramadhar so as to enable them to dismiss him.

25. In this connection, I may mention that in the letter of 16th March, 1962, the management have misquoted Dr. Paul's remark. Dr. Paul among other things said that Ramadhar's condition of health was normal and he was fit to go out. In the letter of 16th March, the management said that Dr. Paul had said that his general appearance of health did not indicate any serious ailment prohibiting travelling. In his reply of 20th March, 1962, Ramadhar has made it clear that he was in a position to move outside but said that it was not possible for him to get the prescribed diet in the outside probably meaning when he was on tour.

26. Thus, it would be clear that Ramadhar was transferred only because of his Trade Union activities; that the management wanted to send him away immediately and were not prepared to give sometime even though he mentioned that he was suffering from gastritis and was on controlled diet which would be difficult for him to get when on touring. He was asked to leave by the evening train of the very day and no reasonable opportunity was allowed to get ready. When he said he was not well etc., undue haste was shown in getting medical report etc. All this also shows that management was determined to remove him from the place of his Trade Union activities forthwith.

27. That Ramadhar Singh's transfer was made only to remove him from this place because of his Trade Union activities could also be seen from the fact that the management did not require a clerk at Sambalpur for the work for which they transferred him there. There was no clerk doing the work before he went there and after he returned from there also there has been no clerk doing this work. The work of obtaining timber etc. is done by a contractor as stated by Ramadhar Singh in his deposition. A suggestion was made in his cross-examination that one Sri Rungta was an employee of the colliery working at Sambalpur, Ramadhar Singh has said that Rungta was a shop-keeper there; there is no reason to disbelieve this statement. Employers have led absolutely no evidence to show that they had any employee working at Sambalpur. This shows that Ramadhar's transfer to Sambalpur was not at all necessary, much less was it urgently necessary and that he was transferred there to victimise him for his Trade Union activities.

28. On the whole, I think that the charges that Ramadhar was guilty of disobedience of orders and in-subordination and of being guilty of absence from duty without leave and without reasonable cause are not true.

29. In the letter of charge of 19th March, 1962 he has also been charged with being guilty of fraud and dishonesty as he signed attendance register without reporting for duty and this charge is also said to have been proved. It appears that after Ramadhar returned from Sambalpur he was not assigned a particular work but different duties were assigned to him on different dates. It is said that after 16th March, 1962 he did not do any work and he fraudulently signed the attendance register to obtain pay for these days. His explanation is that he used to go to the office as usual and used to sign the attendance register also as usual

and waited as usual for assignment of work but no work was assigned to him after the 16th. I may be remembered that on 15th he was transferred and on 16th he was again asked to proceed forthwith failing which the management would be compelled to take action against him but he was never suspended. He was therefore right in reporting for duty everyday and signing the attendance register as usual. If no work was assigned to him, it was not his fault.

30. In the letter of charge dated 20th March, 1962, it has also been alleged against him that on 19th March, 1962, he went to the Agent with an application for leave without any remark from the department and in the absence of any remark, he was not granted permission to leave the colliery; still he did so. This incidentally indicates that till 19th of March not only was he on duty but he was on duty to the knowledge of the management and he was signing the attendance register as usual and not fraudulently or dishonestly. I believe him when he says that he was reporting for duty every day but no work was assigned to him an allegation which has not been rebutted. Thus none of the allegations made in the letter of charge of 19th March, 1962, is true.

31. The third reason for passing the order of dismissal against Ramadhar is the letter of charge dated 20th March, 1962. As I mentioned above, it is alleged therein that on 19th March, 1962 he left the colliery without obtaining previous permission. It has been alleged that this letter is anti-dated and that it was really issued on 23rd March, 1962. Whether it was issued on 20th March, 1962 or 23rd March, 1962 is not material because it was actually served on Ramadhar on 23rd March, 1962 as mentioned by him in his reply of 24th March, 1962. This allegation made in his reply has not been denied by the management at any time. In other words, this letter reached Ramadhar only on 23rd March, 1962.

32. This letter of 20th March 1962 not only contains the above allegation but also contains the statement that Ramadhar's explanation of 20th March, 1962, (in respect of letter of charge of 19th March, 1962) was found unsatisfactory and an enquiry would be held in the same on 24th March, 1962. No time was fixed for replying to the letter of charge of 20th March, 1962. The reply to this letter of charge was given by Ramadhar only on 24th March, 1962 just before the enquiry started. The management could not fix the enquiry or hold an enquiry before the workman had replied to the charge sheet and he should have been given a reasonable opportunity after he replied thereto before the enquiry was started.

33. The statement of Ramadhar recorded by the Enquiry Officer shows that he was first asked whether he had to give any explanation about his leaving the colliery on 19th March, 1962 without permission and he submitted his written explanation. He was then asked several questions which all relate to the allegations made in the letter of charge dated 19th March, 1962. Not a single question was put to him regarding the allegation made in the letter of charge dated 20th March, 1962. Thus, on the face of it, there was no enquiry at all in respect of this charge and if we consider the above enquiry as an enquiry including this charge, it was not a proper enquiry.

34. The charge is to the effect that on 19th March 1962 Ramadhar went to the Agent at about 9 a.m. with an application direct without any endorsement from the department and as such it was not granted and still he left the place without permission. His explanation is that that morning he received a telephone call from his Union Secretary requiring his presence before the Conciliation Officer at Raniganj. He thereupon went to the authorities with a request for leave, but was shunted from place to place and ultimately as the bus was about to leave, he told the Labour Welfare Officer that he was leaving with his kind permission and went away in good faith. It is also alleged that the conciliation proceedings were in respect of the Samla collieries and that Shri Srivastava attended this proceedings, on behalf of the management. There is no denial that such conciliation proceedings took place on that day, nor is there a denial that Shri Srivastava attended it or that Ramadhar was not present. This is all the more important when we remember that Ramadhar made these categorical allegations in his deposition on 29th December 1962. Shri Srivastava was examined on 31st December 1962. There was sufficient time for the management and Shri Shrivastava to examine the records and to get information about it.

35. In his deposition, the Labour Welfare Officer went to the length of saying that if a person is called by the Conciliation Officer at the last minute and has no time to obtain permission for leave and sends an application requesting for leave and goes away in anticipation of sanction, it would be improper. It is also important to note that in his written explanation, Ramadhar had specifically mentioned that he had gone to the Labour Welfare Officer who asked him that he had applied late

and he thereupon gave the explanation (for the lateness) and then he requested him to permit him to leave looking to the urgency and as the bus was then leaving he told him that he was going with his kind permission. None of these allegations has been controverted by the Welfare Officer in his enquiry report. If the allegations were not true, I am sure he would have said so in his report. I am therefore satisfied that Shri Ramadhar left the colliery in the circumstances alleged by him in his written explanation which show that even if there was no express consent, there was at least implied consent of the Labour Welfare Officer and looking to the fact that he was required to attend the conciliation proceedings at short notice, I think the giving of application late was justified. I therefore hold that he has not committed anything wrong in leaving the colliery on 19th March 1962 and the charge dated 20th March 1962 must be held not proved.

36. The result is that none of the allegations on the strength of which Ramadhar Singh was dismissed is held proved and his dismissal is therefore not proper. As I said above, I am of opinion that it was a case of victimisation for his Trade Union activities. The only proper order that should be passed in this case would therefore be reinstatement with payment of full back wages.

37. I now come to the case of the other workman Lakhan Mahato who was working as a pick-miner in the Ramnagar colliery. It appears that this workman was serving in the colliery for some years; but he was dismissed in about February 1961. The matter was referred for adjudication to this Tribunal under Reference No. 12 of 1961. There was a settlement between the employers and the workmen and thereunder the management agreed to appoint this workman in his former post with effect from 3rd October 1961 on compassionate grounds in any of their collieries. The workman has also admitted that he was reinstated but the period of absence was not condoned and was treated as a break in service. In other words, technically this workman was a new entrant having joined the service from October 1961.

38. He was served with two chargesheets dated 3rd February 1962 and 5th February 1962 respectively. In the first chargesheet, it was alleged that he had left his work on 2nd February 1962 and was found about half a mile away from his working place and that he did not carry out the instructions of the under-Manager, and the Asstt Manager. The second chargesheet was to the effect that on 3rd February 1962 he left without permission and came out of the mine and behaved with the Manager in an unruly and riotous manner and also threatened to kill him. He replied to both the chargesheets denying the allegations. On 7th February 1962, he was informed that an enquiry would be held against him at 8 a.m. on 10th February 1962 by the Welfare Officers Shri Srivastava and Shri Murarka. The management allege that accordingly an enquiry was started at 8 a.m. on 10th February 1962 when the workman Lakhan Mahato was not present. Thereupon the statements of witnesses who were present were recorded. Lakhan Mahato turned up at about 8-45 a.m. The statements of witnesses were read out to him and he was asked to cross-examine them but he declined to do so. He also declined to examine any witness in defence. The Enquiry Officer then submitted a report on 12th February 1962 and on that very day the Manager passed an order dismissing him.

39. Here also the enquiry was not at all proper. It does appear that Lakhan Mahato did not appear at the enquiry at the appointed time i.e. at 8 a.m., but came there at about 8-45 a.m. This appears from the statement of Lakhan Mahato recorded by the Enquiry Officer. I do not believe Lakhan Mahato when he says that he went there in time. In other words, the Enquiry Officer was right in starting the enquiry at 8 a.m. even though Lakhan Mahato was not present.

40. The Enquiry Officer however did not record the statement of the different witnesses but asked them to write out their statements and give them to him. This was not proper. It is not only important to have the statements of witnesses but it is also important to watch their demeanour when they were giving their statements. A person may otherwise write out a tutored statement. The Enquiry Officer who is supposed to find out the truth should therefore have recorded the statements himself so that he could have seen whether the witnesses were speaking the truth.

41. Not only was not this done but I am not satisfied that when Lakhan Mahato appeared the statements were read over to him or he was asked to cross-examine them. No doubt Shri Srivastava says that he did do all this. But the statement of Lakhan Mahato recorded by him belies this allegation. That statement begins with a recital that the enquiry was started against Lakhan Mahato on 10th February 1962; that the statements of certain witnesses mentioned therein were read over and questions were put to them; that Lakhan Mahato was not present at the

enquiry; that he came there at about 8-45 a.m. and joined the enquiry; that he was asked as to what he had to say regarding the chargesheets of 3rd February 1962 and 5th February 1962 and he said he had already given typed replies; that he had nothing more to say nor had he to ask anything to anyone; that all that he wanted to say that he should be taken back in service as soon as possible as he was a poor man; that he had nothing more to say and nothing more to ask. There is thus no recital that the statements of the witnesses were read over to him (Lakhan) or that he was asked to cross-examine them.

42. The recital that statements of the witnesses were read over appears to me to be a recital relating to some earlier statement which they (witnesses) must have given or at any rate to the written statements which they gave at that time; and these statements were read over to the witnesses. It is after this recital that we find the recital about Lakhan being not present at the enquiry and thereafter there is a further recital that he came there at 8-45 a.m. In other words, the recital about the statements being read out etc., could not have referred to something which happened after he came there. I am therefore not satisfied that Lakhan Mahato was given any opportunity to cross examine the witnesses whose written statements were accepted by the Enquiry Officer. That being so, the enquiry offended against principles of natural justice and the finding of the Enquiry Officer would therefore have no value.

43. Even then the Tribunal has got to consider whether the charge against Lakhan Mahato was true or not. There are two chargesheets against Lakhan Mahato, the first of which relates to his being absent from the place of duty on 2nd February 1962 for which there is no evidence. I would therefore hold that charge not proved.

44. The second chargesheet relates to 3rd February 1962 and it is alleged that on that day he left work without permission and came out of the mine and behaved with the Manager in any unruly and riotous manner and also threatened to kill him. In this connection, the workmen have examined Lakhan Mahato, while the Management have examined the then Manager Mr. Lobo. Lakhan Mahato denies the allegations against him. He is however naturally interested in denying the allegations. On the other hand, Mr. Lobo is now not interested as he is no longer serving in this colliery. He has stated in his deposition that on 3rd February 1962 he had instructed his overman Dutta that Lakhan Mahato should be asked to work at pit bottom; that Lakhan Mahato went down the pit with Dutta but returned within 15 minutes to the place where the manager was sitting and told him that he was not prepared to work at the place given to him and that he should be sent to the place where he was working on the previous day. The Manager told him that this could not be done as work had been stopped at that place. Thereupon the workman began to shout at the Manager and began to gesticulate at him and threatened to kill him and then left the place. As I mentioned above, Mr. Lobo is now not interested in the matter as he has left this colliery more than two months ago. In his deposition, Lakhan Mahato has admitted that he had no enmity with Mr. Lobo or with the Asstt. Manager or under-Manager. The statements of the Asstt. Manager and under-Manager recorded by the Enquiry Officer are not evidence before me, as they have not been examined before me. I therefore ignore those statements and also the other statements recorded by the Enquiry Officer. But Mr. Lobo has been examined as a witness before me and I believe him.

45. It is true that no other witness has been produced before me in support of the charge sheet levelled against Lakhan Mahato. It is however not necessary that all persons should be examined, nor is it necessary to have a number of witnesses. The Tribunal has got to consider the evidence produced before it and come to its conclusions. On considering the evidence of Lobo and Lakhan Mahato, I believe Lobo's evidence and disbelieve that of Lakhan Mahato. I am satisfied that Lakhan Mahato abused, assaulted and threatened the Manager. I therefore hold that the charge levelled against Lakhan Mahato in the chargesheet dated 5th February 1962 is proved.

46. Regarding punishment, it is a matter in the discretion of the management. The charge against Lakhan Mahato was of threatening to kill the manager. This is a serious charge. He had been previously dismissed and was reinstated only on compassionate grounds. Still, he mis-behaved like this. I therefore think that the order of dismissal is not improper.

47. The result is that the dismissal of Shri Ramadhar Singh is held to be unjustified and it is ordered that he should be reinstated in his former post with continuity of service within a week of this award becoming enforceable and also

that he should be paid all his back-wages upto-date as if he was continuing all along in service.

The dismissal of Lakhon Mahato is justified and he is not entitled to any relief.

The management shall pay Rs. 200/- (Rupees two hundred) as the costs of the workmen.

I pass may award accordingly.

Sd./- L. P. DAVE, Presiding Officer.

The 15th February 1963.

[No. 2/48/62-LRII.]

ORDERS

New Delhi, the 19th February 1963

S.O. 569.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Burhar and Amlai Collieries, P.O. Dhanpuri, District Shahdol, Madhya Pradesh, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

SCHEDULE.

Whether the management of Messrs. Rewa Coalfields Limited was entitled to transfer Shri Sampat Kumar Singh, compounder, Burhar Colliery Hospital, to the East Donger Chikli Colliery Hospital owned by Messrs. Panch Valley Coal Company Limited? If so, was the transfer illegal and *mala fide*? If so, to what relief is Shri Sampat Kumar entitled?

[No. 5/32/62LRII.]

S.O. 570.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bhutgoria Colliery, Post Office Bhutgoria, District Dhanbad, Bihar and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE.

Whether the punishment of dismissal inflicted on Shrimati Shanti and five other boiler Kamins by the management of Bhutgoria Colliery was justified? If not, to what relief are the workers entitled?

[No. 2/26/62-LRII.]

New Delhi, the 22nd February 1963

S.O. 571.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the North Brook Colliery, P.O. J. K. Nagar, District Burdwan, West Bengal, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the

Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE.

Whether the underground workmen of the North Brook Colliery had to work from 1st May, 1960, with their own Lanterns and Chimneys purchased by them. If so, whether such workmen are entitled to the re-imbursement of the cost incurred by them in this behalf and if entitled, to what extent?

[No. 1/3/63-LRII.]

A. L. HANDA, Under Secy.

New Delhi, the 22nd February 1963

S.O. 572.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Delhi, in the industrial dispute between the employers in relation to the Central Bank of India Limited and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DELHI

PRESENT:

Shri Anand Narain Kaul,

Central Government Industrial Tribunal, Delhi.

31st January, 1963.

REFERENCE I.D. No. 140 OF 1962.

BETWEEN

The employers in relation to the Central Bank of India Limited,

AND

Their Workmen.

Shri K. P. Mahale—for the Bank.

Shri R. L. Khandelwal—for the workmen.

AWARD

By Government Order No. S.O. 51(20)/62-LRIV, dated the 2nd June, 1962, the Central Government in the Ministry of Labour & Employment has referred to this Tribunal an industrial dispute existing between the employers in relation to the Central Bank of India Limited (to be referred to hereinafter as the Bank) and their workmen, in respect of the matters specified in the Schedule annexed thereto. The matters as specified in the Schedule are as follows:—

- (1) Whether in the matter of appointment as Junior Officer the supersession of Shri Hotchand T. Raisinghani, clerk in the Bank was justified and, if not, to what relief is he entitled?
- (2) Whether the action of the bank in discontinuing the payment of checking allowance of Rs. 10 per mensem to Shri Hotchand T. Raisinghani with effect from the 5th February, 1962 is justified and, if not, to what relief is he entitled?

2. In response to the usual notices issued to the parties a statement of claim was filed on behalf of the workman on the 17th August, 1962 and a written statement was filed on behalf of the Bank on the 17th September, 1962. The Bank filed a clarification on the 22nd October, 1962 in regard to certain matters, as directed by the Tribunal and a re-joinder was filed by the Rajasthan Bank Employees' Union representing the workman on the 28th October, 1962.

3. The case of the workman is that Shri Hotchand T. Raisinghani joined the service of the Bank at Karachi in October, 1943, having had one year's previous banking experience to his credit in the Sind National Bank Limited, Karachi and, in view of the experience, he was given a starting pay which was higher than the minimum of the scale. In the year 1945 Shri Raisinghani was posted at

Nawab Shah Sind as Chief Cashier and was also granted power of attorney which is normally granted by the Bank only in favour of Officers of the Bank such as Agents, Sub-Agents, Accountants, etc. In January, 1948 he was posted at Jamshedpur and in January, 1949 transferred to the Ajmer Branch of the Bank. In view of the experience that he had gained and the faithful and efficient service that he had rendered he was granted a checking allowance of Rs. 10 per mensem on the strong recommendations of the Ajmer Branch in 1960. Although, however, Shri Raisinghani was promoted to the supervisory cadre with effect from May, 1960, and continued to work in that supervisory capacity upto 28th February, 1962, he was only given an allowance of Rs. 10 per mensem for the job instead of Rs. 50 per mensem as prescribed under Paragraph 164(b)(9) of the Sastry Award. In the meantime he made several representations to the Bank for promotion to the grade of a Bank's officer and during the same period was elected as President of the Rajasthan Bank Employees' Union, Ajmer. It is alleged that, in consequence of the trade union activities of Shri Raisinghani the Bank adopted a vindictive attitude towards him and, instead of considering favourably his representation for promotion to officers grade, made on the 15th June, 1961, the Bank promoted as officiating Junior Officer one Shri H. P. Mittal, who was junior to Shri Raisinghani by 2½ years. In the conciliation proceedings that followed the raising of the dispute by the Union, the Bank is said to have taken a stand that, Shri Raisinghani having been only a non-Matriculate, his case for promotion was not considered although, according to the Union, there are several officers even in the Head Office of the Bank holding high positions who are non-matriculates. The relief sought is promotion of Shri Raisinghani to the post of Junior Officer, payment of the arrears of supervisory allowance of Rs. 50 per mensem with effect from May, 1960 till the date of award and continuance of the same in future.

4. The Bank's case, as set out in the written statement, is that the question of promotion, which, according to Paragraph 529 of the Sastry Award, by its very nature involves a great deal of discretion resting with the management, cannot be a matter for adjudication. As to the checking allowance, it is stated that it is sanctioned by the Bank at its sole discretion when minor or routine checking work is entrusted to some senior clerk and it is not given under any provisions of the Bank Award. That being the case, the Bank is fully entitled to withdraw such an allowance when the clerk concerned is no longer required to perform any duties for which such allowance is paid to him and, in the circumstances, the allowance also cannot be a subject of adjudication. As to the claim for arrears of supervisory allowance, the Bank's contention is that it is beyond the scope of the reference. The Bank has also denied that the minor checking work, with which Shri Raisinghani was entrusted, by the Bank, in its discretion involved any supervision. According to the Bank, therefore, Shri Raisinghani was not entitled to the supervisory allowance of Rs. 50 prescribed as payable to supervisors under Paragraph 164(b)(9) of the Sastry Award. The facts in statement of claim, relating to the appointment and transfer of Shri Raisinghani have been admitted in substance but it has been pointed out that the power of attorney granted in his favour, while he was posted at the Bank's Branch at Nawab Shah Sind was only for the proper discharge of his duties as Chief Cashier. The Bank has denied any knowledge of the trade union activities of Shri Raisinghani and has stated that his election in any capacity was of no consequence to the Bank and there was, therefore, no basis for the allegation as to his victimisation for trade union activities. As to the alleged promotion of Shri H. P. Mittal, the Bank has denied that it was a case of promotion and has stated that he was only posted in an officiating capacity as a stop gap arrangement.

5. In the light of the pleadings of the parties and the terms of reference the following issues were framed:—

- (1) Whether in the matter of appointment as Junior Officer the supersession of Shri Hotchand T. Raisinghani, clerk in the Bank was justified and, if not, to what relief is he entitled?
- (2) Whether the promotion of Shri Mittal as Junior Officer in supersession of Shri Hotchand T. Raisinghani was an act of victimisation on account of the trade union activities of Shri Raisinghani?
- (3) Whether Issue No. 1, as stated in the reference, being related to a question of promotion, cannot be a matter of adjudication and the reference in that respect is bad?
- (4) Whether the claim of the Rajasthan Bank Employees' Union for grant of supervisory allowance, amounting Rs. 50 per mensem from May, 1960 is admissible in view of the limitations of term No. 2 of the reference? If not, to what relief Shri Raisinghani is entitled in this matter? If the claim be admissible, to what relief is Shri Raisinghani entitled?

(5) Whether in any case Shri Raisinghani is entitled to the continuance of the allowance of Rs. 10 with effect from the date on which it was stopped?

6. On behalf of the workmen only one witness, namely Shri H. T. Raisinghani, the concerned employee, has been examined, while the Bank has examined two witnesses, namely Shri G. D. Manchanda, its Agent at the Ajmer Branch, and Shri Goverdhan Singh, its Chief Agent for the Jaipur Group. A number of documents have also been filed by either party.

7. I have heard arguments of representatives of the parties at considerable length and proceed to dispose of the issues. I shall take up the issues one by one. *Issue No. 1.*

8. It appears from the better particulars, which the Bank was required to give, that Shri H. P. Mittal officiated as a Junior Officer at Ajmer and elsewhere during the following periods only:—

From 5-2-1962 to 13-4-1962 at Ajmer office.

From 14-4-1962 to 22-4-1962 at Johri Bazar office.

From 23-4-1962 to 6-5-1962 at Ajmer office.

From 7-5-1962 to 14-5-1962 at Bharatpur office.

Shri G. D. Manchanda, MW1, Agent of the Bank at Ajmer Branch, has stated, in his evidence, that he did not know on what ground Shri Mittal was promoted and whether it was due to his being matriculate while Shri Raisinghani was only a non-matriculate. This, according to the witness, is a matter of policy which has to be dealt with by the Head Office at Bombay on the recommendations of the Chief Agent at Jaipur. In the failure of conciliation report, dated the 2nd May, 1962, made by the Conciliation Officer (Central) at Ajmer, of which a copy forms an Annexure to the reference, the management of the Bank is stated to have taken the stand that Shri Raisinghani is a non-matriculate, whereas Shri Mittal is a matriculate and further that Shri Mittal was considered by the Bank as more fit than Shri Raisinghani for promotion as Junior Officer. In his evidence before me Shri Goverdhan Singh, MW2, Chief Agent of the Bank for the Jaipur Group, has stated that promotions of employees of the Bank to the officers grade are made on a consideration of educational qualifications, experience of work, power to control and supervise, power of expression, way of handling customers, and, in short, on the basis of an over all picture of a man. It was the Chief Agent who used to recommend cases for promotion. He has further stated that, having had opportunities of observing Shri Raisinghani's work and of interviewing him, he had, as far back as November 1961, made a report to the Head Office that Shri Raisinghani was not fit to be promoted as an officer. This report however has not been made available to the Tribunal, presumably because of its being a confidential document, but the witness has not denied that he had received a recommendatory letter, Ext. M/1, dated the 15th June, 1961. He however says that he did not agree with the recommendations made therein since he had personally known Shri Raisinghani right from 7th February, 1959, when the witness joined as Chief Agent of the Jaipur Group. In this letter, whereby the representation of Shri Raisinghani of the same date was forwarded the Agent of the Bank had stated that his case had been already recommended for promotion to officers grade and that, during the Chief Agent's recent visit to the Branch he had been good enough to assure Shri Raisinghani that his request was already under consideration. The Agent further stated that Shri Raisinghani had given good account of himself and that, if he was promoted, he would prove worthy of the choice. In cross-examination Shri Goverdhan Singh admitted that Shri Mittal, during his officiating chance, committed certain irregularities, but he ceased to officiate because it was a temporary arrangement and because a permanent officer from outside was transferred to that job. The witness has also stated that he had received a complaint from the Agent of the Bank at Ajmer that Shri Raisinghani's own work as a clerk had fallen in arrears because of his checking work. This report, which is stated to have been made in January, 1962, has also not been placed on record. In the absence of any of the reports, on which the supersession of Shri Raisinghani by one junior to him in the matter of promotion to the Junior Officer's job was based, I am unable to accept the Bank's contention that Shri Raisinghani was unsuitable for promotion or that Shri Mittal was more fit for promotion. Evidently Shri Mittal was not found suitable, in the long run, and he was replaced by a permanent officer transferred from outside. Even irregularities committed by him are said to have been detected, although it is said that this happened after he had ceased to officiate and did not concern his work. I see no reason why the report, Ext. M/1, of the Agent of the Ajmer Branch Shri

Raisinghand's immediate officer, about his good work and his suitability for promotion should be given less weight than the Chief Agent's views, as expressed in his evidence given in the absence of the necessary documents. It is quite true that in Paragraph 529 of the Sastry Award it has been observed that mere length of service alone, irrespective of efficiency, educational qualifications, character and nature of responsibility required in connection with the vacancies to be filled in, could not be the sole or even the main criterion for promotion and that a great deal of discretion by its very nature must rest with the management in this connection. Further on, in the same paragraph, however, a direction has been given, that, in the case of employees who were not found fit for promotion the decision should be borne out by service records of the employees and that, when a person senior in service is superseded, it should be for good and cogent reasons. The Bank itself in para 2 of its written statement has quoted the first portion of this paragraph of the Sastry Award, but I do not think the directions given in the Award have been fully observed in the present case. Further on in para 17 of the written statement the Bank has taken the stand that Paragraph 529 of the Award has no relevance in the case but it has not been made clear why it is not relevant. During arguments, however, it was contended on behalf of the Bank that Paragraph 529 of the Sastry Award deals only with promotions in the clerical cadre as shown, according to the Bank, by the succeeding Paragraphs 530 and 531 and by Paragraph 494 of the Award. Paragraph 529 does not however, refer specifically to promotions to the clerical cadre. In Paragraph 528 there is a reference to the demands of the employees including appointments of supervisors, accountants and other officers from among the clerks on the basis of seniority. Paragraph 530 of course deals with the demand for promotion of persons, who had studied upto pre-matric class, to appointments in the lower clerical grades. Paragraph 531 begins with a reference to the promotions to supervisors and officers grade and to the objection on behalf of the Bank that it is beyond the scope of jurisdiction of the Tribunal. The Award has avoided dealing with the legal aspect of the objection but has noted that in actual practice a large number of officials of the Bank had been promoted to the clerical grade.

9. Reference was also made to Paragraph 494 of the Award which deals with the demand that there should be no direct recruitment to supervisory and officers' grades and which quotes the views contained in paragraph 48 of Justice Divatia's Award that the demand could not be granted because the court had no power to make any award about the selection of officers and higher posts. Here also the Sastry Award avoided dealing with the legal aspect of the banks' objection in respect of this demand and observed that it was neither necessary nor desirable to impose any such restrictions on the banks in the matter of direct recruitment. The Desai Award, Paragraph 14, 11, in dealing with the promotion policy, has quoted Paragraph 529 of the Sastry Award with evident approval and has observed that seniority in service, though not the only factor to be considered in connection with promotion, is one of the important factors which has to be taken into account. In his arguments in reply to the Bank's plea that Paragraph 529 of the Sastry Award does not deal with promotions from clerical cadre to officers grade, Shri Khandelwal on behalf of the Union made a reference to a settlement said to have been reached between the management of the Bank and the All India Bank Employees' Association in I.D. No. 402 of 1959. The General Secretary of the Union has sent, to the Tribunal, a copy of that agreement after the arguments were concluded and is stated to have supplied a copy of it to the Bank also. Paragraphs 1 and 2 of the settlement which was incorporated in the award dated 25th January, 1960 of the Delhi Tribunal run as follows:—

"(i) The Bank is willing to give an option to the Junior Officers under the designation of Grades 'F' & 'E', Supervisors promoted to such posts from the existing workmen, to choose either to be governed by the rules of the Bank in respect of pay and other conditions of service or by those prescribed in the Award of the All India Industrial Tribunal (Bank Disputes) constituted by the Notification of the Government of India in the Ministry of Labour S.R.O., dated 5th January (41 of 1952)."

"(ii) That the exercise of option could be made by the persons concerned within one month from the date of publication of the Award of this Tribunal in the official gazette."

From this agreement it is sought to be shown that junior officers of the Bank were treated as belonging to the category of workmen and were as such the subject-matter of the settlement as appearing from the award. I cannot say that this agreement has force. On a careful consideration of the entire position I am not satisfied that the directions contained in Paragraph 529 of the Sastry Award are

not applicable to cases of promotion to junior officers of the Bank from the clerical cadres. For reasons already given by me I am constrained to hold that the supersession of Shri Raisinghani by the appointment of Shri H. P. Mittal as Junior Officer was not justified. I shall deal with the question of relief after I have dealt with Issues No. 2 and 3.

ISSUE NO. 2.

10 There is no convincing evidence that the supersession of Shri Raisinghani by Shri Mittal was an act of victimisation on the part of the Bank and was due to the former's trade union activities. Shri Raisinghani has stated that he was elected as President of the Rajasthan Bank Employees' Union at Ajmer on 8th September, 1961 and that the news item was published in the Hindu, a local Sindhvi daily in Ajmer. The Bank is also said to have been informed of this election by issue of letters, but no such letters have been produced. The Bank's witness, Shri Manchanda, MW1, has stated that he had not received any communication under signature of Shri Raisinghani as President of the local Union, nor had he been aware at any time of his trade union activities. Shri Goverdhan Singh, MW2, Chief Agent of the Bank, has made a similar statement. There is nothing to show that Shri Raisinghani indulged in any tangible trade union activities as President of the local Union which could have been brought to the notice of the Bank management and which could have induced them to adopt a vindictive attitude towards him. It appears from the evidence of Shri Raisinghani himself that Shri H. P. Mittal, who had superseded him, was himself a member of the same Union and that there was also another Union of Central Bank Employees at Ajmer, of which Shri Raisinghani was not a member. In the circumstances I am not convinced that the supersession of Mr. Raisinghani was in any way connected with his trade union activities and I find accordingly on Issue No. 2.

ISSUE NO. 3.

11. It is quite true that promotions, even according to para 529 of the Sastry Award, are a matter in which a great deal of discretion, by its very nature, must rest with the management but the award itself has laid down certain directions in the matter which require to be followed and to which I have already referred. In the circumstances it is difficult to accept the position that, even where the requirements laid down in these directions have not been fulfilled by the Bank management, a question of promotion cannot be a matter of adjudication. A number of authorities have been cited in this connection to two of which I may refer briefly.

12. In *Associated Cement Companies Limited Vs. its workmen* (1955 LAC 563), the Labour Appellate Tribunal has observed that promotion is primarily a management function but the learned tribunal itself has referred at page 569 with approval to the case of the Assam Oil Company (1954 LAC 543), wherein it was held that Tribunals will not interfere in promotions *unless the power has been improperly exercised* and the tribunal itself reaffirmed the position and laid down that the discretion shall be properly exercised in the matter. In the case between Upper Doab Sugar Mills, Limited, Shmali and State of Uttar Pradesh (1962 I LLJ page 1), it was observed by the Allahabad High Court, that it would be an industrial dispute within the meaning of S. 2(k) of the Industrial Disputes Act, if any employer does not give to the employee promotion to a higher post and the matter has been taken up by the fellow workmen and that the question whether a person has been superseded or not or whether he is entitled to promotion or not would also be comprehended in the words "employment or non-employment" occurring in S.2(k) of the Industrial Disputes Act. It seems to me, therefore, that an adjudication on the question of promotion is not excluded where it is found that the discretion vesting in the management in the matter of promotions has been improperly exercised. I find accordingly on the issue and hold that the reference is not bad in the circumstances of this particular case.

13. Coming to the question of relief, however, I am unable to grant any relief because it appears that Shri Mittal who had superseded Shri Raisinghani officiated as a Junior Officer only for a short period of about 3 months at different places including Ajmer and that he ultimately reverted as already shown above. It also appears that the post was ultimately filled by the transfer of a permanent hand from outside. In the case between Vishnu Sugar Mills and their workmen (1960 II LLJ page 272), it was observed by Their Lordships of the Supreme Court, that if a new post is created and a new man is appointed on that post, it cannot be said that even the seniormost workman working in the department has got a right to claim promotion. In the circumstances of the case, I am unable to grant any relief to Shri Raisinghani in the matter of promotion. I cannot, however, help

observing in view of what has been stated above on Issue No. 1, that it would be quite fair to give Shri Raisinghani a chance of working as Junior Officer if and when an opportunity occurs in the future. Apart from this recommendation, I am unable to grant any relief to the workman.

ISSUE NO. 4.

14. Obviously the claim for a supervisory allowance does not fall within the scope of term of reference No. 2. When this was pointed out to the representative of the workman during arguments, he made a statement that the claim was not pressed. No finding on the issue is called for.

ISSUE NO. 5.

15. It appears from the Agent of Ajmer Branch's letter Ext. W/1, dated the 29th July, 1960, which is an admitted document, that in the month of May Shri Raisinghani was initially allowed to do routine checking work to help Junior Officers of the branch to carry on the office work and thereafter, on the request of the Agent, Shri Raisinghani was permitted to carry on that work along with his clerical duties in connection with the half yearly closing work. In view of the increase in deposits to about Rs. forty lakhs and the consequent increase in routine work and also in view of the fact that the minor checking work along with clerical work, that was being performed by Shri Raisinghani, had given satisfaction to him the Agent requested the Chief Agent at Jaipur to allow Shri Raisinghani to continue the checking work along with his clerical duties. Accordingly Shri Raisinghani appears to have been permitted to continue the work and it also appears from the Charts of duties Exts. M/2 and M/3, dated the 7th November, 1960 and the 27th July, 1961 that Shri Raisinghani's duties included routine checking work. In his representation dated the 28th July, 1960, Ext. M/5, Shri Raisinghani had made a request to make the minor checking duties a part of his other clerical duties and gave an undertaking that he would not demand any further increase in allowance if he is allowed to continue the minor checking work. This is also an admitted document. From the evidence of Shri Raisinghani it appears that the checking allowance of Rs. 10 per mensem, which he had been drawing from May, 1960, was stopped by a letter of the management which is Ext. WW1/1, dated the 6th March, 1962. This order was evidently passed while Shri Raisinghani was on leave and even the checking allowance which had been paid to him upto 28th February, 1962 was subsequently recovered for the period from 5th February, 1962 to 28th February, 1962 as stated by Shri Raisinghani. This action followed his representation dated the 24th February, 1962 which he made to the General Manager and which is marked as WW1/2. In that representation he had complained against the promotion of Shri H. P. Mittal at Ajmer and of Shri H. P. Gupta at Jaipur as officiating junior officers superseding his claim and ignoring the promises and assurances given to him by the Chief Agent, Jaipur from time to time. It seems to me that the checking work along with the allowance had become a part of Shri Raisinghani's routine clerical duties by virtue of its having been drawn for a considerable long period and having been granted obviously in recognition of his good work and on the recommendations of his immediate officer. The undertaking in his letter Ext. M/5 to the effect that if allowed to continue the minor checking duty he would not claim any further increase or allowance has little significance. The allowance was actually given for the checking work in spite of this undertaking and could not justify subsequent withdrawal. The stoppage of this allowance does, to my mind, amount to denial of a status which Shri Raisinghani had virtually attained and the circumstances in which this allowance was stopped also go to show, that it was directly or indirectly the result of repeated representations made by him against his supersession in the matter of promotion as a junior officer. I, therefore, hold that he is entitled to the continuance of the allowance of Rs. 10 with effect from the date from which it was stopped i.e. 5th February, 1962. I accordingly direct that the checking allowance of Rs. 10 enjoyed by Shri Raisinghani upto 5th February, 1962 be continued and that he be paid the arrears of the allowance with effect from that date. An award is passed accordingly. The award will be implemented within two months of its becoming enforceable.

(Fourteen pages).

31st January, 1963.

(Sd.) ANAND NARAIN KAUL.

Central Government Industrial Tribunal, Delhi.

[No. 51(20)/62-LRIV.]

S.O. 573.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Indian Bank Ltd., Calcutta and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL: CALCUTTA

REFERENCE No. 37 of 1962.

PARTIES:

Employers in relation to the Indian Bank Limited, Calcutta.

AND

Their workmen.

PRESENT:

Shri L. P. Dave.—*Presiding Officer.*

APPEARANCES:

On behalf of employers.—Shri H. Ramanathan, Law Officer.

On behalf of workmen.—Shri Tushar Chakrabartty, President, The Indian Bank Employees Union, Calcutta.

STATE: West Bengal.

INDUSTRY: Banking.

AWARD

The Government of India, Ministry of Labour and Employment, by their order No. 51(27)/62-LRIV dated 18th August 1962, referred the industrial dispute existing between the employers in relation to the Indian Bank Limited, Calcutta, and their workmen in respect of the following matters, for adjudication to this Tribunal:

"Whether having regard to the provisions in paragraph 530 of the award of the All India Industrial Tribunal (Bank Disputes) as modified by the decision of the Labour Appellate Tribunal in the manner referred to in section 3 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955), the management of the Indian Bank Limited, Calcutta, was justified in refusing to consider Shri Babooram Singh, Jamadar, for promotion as clerk and, if not, to what relief is he entitled?"

2. In response to notices issued by the Tribunal, both parties filed their written statements. The workmen represented by the Indian Bank Employees' Union, Calcutta, contended that Shri Babooram Singh was appointed as a Head Jamadar in the Bank; that he was sufficiently literate and intelligent; that he was asked to perform clerical duties from time to time; that when a vacancy arose in the clerical cadre in May 1962 he made a representation to the Bank for promotion to the clerical cadre which was turned down; that the Bank's contentions in this connection are contrary to the provisions of the Sastry award and were aimed at defeating the employees' just and legitimate claims and were nothing short of unfair labour practice to victimise the said employee who had always been an active member of the Union. The Union therefore urged that the Bank should be directed to promote the said workman to the clerical cadre and to award such other relief as may be deemed fit and proper.

3. The Bank, by its written statement, contended *inter alia* that the claim was misconceived and was not sustainable in law or on facts; that Babooram Singh's appointment in 1955 was as a Jamadar under the Guarantee Cashier and could be terminated when the Bank's agreement with the guarantee cashier was terminated; that the said workman was working under the direction of the Guarantee Cashier till 1960 when the agreement with the Guarantee Cashier was terminated and thereafter the above workman was allowed to work as Jamadar in the Bank; that the said workman was never asked to perform clerical duties; that even assuming that he was performing the work of a clerical nature on rare occasions, it would not entitle him to claim promotion to clerical cadre; that the said workman's request for promotion was carefully considered by the Bank which after such consideration found him not fit for promotion; that it had the right and discretion to do so and it exercised the discretion *bona fide*. The Bank therefore urged that the claim of the Union should be dismissed.

4. The present dispute relates to a workman named Shri Babooram Singh who is admittedly working as the Jamadar in the Calcutta office of the Indian Bank Limited. This Bank originally had a system of a Guarantee Cashier. The above workman when appointed in 1955 was working under the Guarantee Cashier. This system of Guarantee Cashier was abolished in 1960. It appears that at that time the services of all persons working under the Guarantee Cashier were terminated; but the Bank took over those employees who were willing to work under the Bank on the same terms and conditions with the benefit of continuity in service. The above workman was accordingly taken up in the Bank. I am mentioning this at this stage only to show that the above workman had worked under the Guarantee Cashier from 1955 to 1960 and if during this period he had done some work of clerical nature, it must have been in that department alone.

5. It appears that in 1960 there was a vacancy of a clerk in the Bank. The above workman applied for being taken up as such, but he was not so taken. It also appears that at that time the Union did approach the Conciliation Officer in the matter but nothing came out of it.

6. In about May 1962, one clerk resigned from the Bank. On 17th May, 1962 the above workman gave an application to the Agent of the Bank at Calcutta requesting him to consider his case for promotion as a clerk mentioning therein that he had performed clerical duties in the Bank. On that very day, the Union also wrote a letter to the Agent of the Bank requesting him to give preference to the above workman and to appoint him as a clerk. On 23rd May, 1962, the Joint Secretaries of the Union wrote a letter to the Conciliation Officer mentioning *inter alia* that the Management had expressed its inability to consider the legitimate demand of the above workman on the ground that he was not a matriculate and requesting the Conciliation Officer to intervene in the matter immediately. On the very next day, one of the Joint Secretaries who had written the above letter to the Conciliation Officer withdrew his signature from the earlier letter. On 25th May, 1962, the Conciliation Officer wrote to the Bank's Agent forwarding a copy of the Union's representation and mentioning that he proposed to hold a joint discussion in the matter on the 12th June. On the 8th June, the Agent wrote a letter to the Conciliation Officer giving the Bank's views on the matter. On 12th June, 1962 Conciliation proceedings were held by the Conciliation Officer, who suggested to the management that they may consider the question of promoting the above workman provisionally, and that the Management would be free to demote him if his work was not found satisfactory during a reasonable period. Further conciliation proceedings were fixed on 23rd June, 1962. On 12th June, 1962 the Agent wrote a letter to the Head Office giving his report of what had happened at the conciliation proceedings mentioning *inter alia* that the Conciliation Officer was of the opinion that the workman should be promoted as a clerk and a fair chance be given to him to prove his abilities. On 20th June, 1962 the Head office wrote to the Agent stating that they had reconsidered the matter and were unable to promote the above workman as a clerk. Thereupon the Agent wrote to the Conciliation Officer on 21st June, 1962 mentioning the same thing. On 23rd June, 1962 further conciliation proceedings were held but ended in failure and thereupon the Government have made the present reference.

7. The above facts are not in dispute. It is also not in dispute that the above person is not a matriculate. Similarly it is not denied by the employers that there are non-matriculate working in different branches of the Bank in South India. The parties have also given a joint statement showing that the above workman has made certain entries in the Cash Book in June and July 1957 but none thereafter. He has also made a few entries in the Savings Bank and Over-draft Day Books on three different dates in January 1959. Similarly, it is an admitted position that he used to accompany the clerk taking remittances to the Reserve Bank of India and at that time armed guard also accompanied them. The procedure was that the clerk entrusted with the remittance to the Reserve Bank who would initially check the number of bundles of notes. The Reserve Bank would later on take up the boxes for checking of notes in each of the bundles. At that time, the above workman used to watch the counting done by the Reserve Bank people, so that the remittance did not get mixed up with the remittances of others. If any shortage or mistake was found in the number of notes, the clerk alone would be responsible and the Reserve Bank would inform this Bank about it. As the above workman would have to stay long in the Reserve Bank premises, he could not naturally take his lunch at his usual place and he was therefore given a sum of Re. 1/- by way of lunch expenses. It is also an

admitted position that the above workman was not the only person who accompanied the clerk with such remittances but other Peons also had to do so at times and used to receive lunch expenses. It is also admitted that according to the terms of policy of transit insurance, a peon and an armed guard are required to accompany a clerk. The other work which the concerned workman is said to have done by way of clerical duties is about operation of a telephone. Here also, the position is admitted. It is that no person was required exclusively to attend to the telephone, as the telephone work was very little. Usually a person had to do other clerical work like dispatching of letters, writing of Central office sheets, and writing of statements of accounts along with attending to the telephone. Babooram Singh on occasions when the regular person entrusted with the telephone work was on leave or was away had to give telephone connections. Such occasions were very rare.

8. The Union's case is that the above workman should have been promoted as a clerk when there was a vacancy in 1962 but the Bank did not do so and that it was a case of victimisation. They urged that the above person was sufficiently educated to do clerical work and that the Bank had employed non-matriculantes as clerks in other branches. They also urged that the above person had worked as a clerk on different occasions in the past and had gained experience and should therefore have been promoted as a clerk when there was a permanent vacancy. On the other hand, the Bank urges that promotion is entirely within their discretion and that after having carefully considered the case of the above workman, they felt that he was not fit for promotion as a clerk. In arriving at that decision, one of the factors which they looked into was his educational qualification also. They urged not only that their decision was proper but also that the Tribunal would have no jurisdiction to question their decision. They further urged that the Reference as framed must fail, because the Reference presupposes that the Bank had refused to consider the above workman's case which was not so and if the Tribunal found that the Bank had considered the workman's case, the Reference as framed must fail. It was lastly urged that the Tribunal had no jurisdiction firstly as there was no industrial dispute as defined under law and secondly because it was an individual dispute.

9. I do not agree with the Bank's contention that this is an individual dispute and not an industrial dispute. The Bank's contention in this connection was that the dispute related to one individual workman; that though originally his case appeared to have been taken up by the Jt. Secretaries, one of them later on withdrew his signature and that the rules of the Union probably required that they could not raise a dispute without calling a meeting of the general body of the members and this did not appear to have been done and hence it could not be said to be an industrial dispute.

10. It is now settled law that a dispute, though it may be regarding one individual workman, would become an industrial dispute if the General Body of workman took up the case and raised a dispute about it. Here the dispute regarding Babooram Singh was taken up by the Union by a letter written by the Joint Secretaries. No doubt it appears that one of the Joint Secretaries withdrew his signature on the letter written to the Conciliation Officer and in writing that letter, he also mentioned that some of the members of the Union wanted to discuss the above issue in their general body for approval according to their constitution and to obtain opinion from the general members before proceeding with the case. This allegation contained in the above letter cannot be treated as evidence nor can it be taken to be proved or true. It is important to note in this connection that in their written statement the Bank has not raised this point, namely, that this was an individual dispute nor has it raised the plea that Joint Secretaries had no power to raise the dispute without consulting the general body nor that one of them had withdrawn his signature. If such a plea had been raised in the written statement, the Union could have led evidence to show what their rules are and also to show whether one of the Joint Secretaries can write a letter to the Conciliation Officer in the matter. Actually from the letter of one of the Joint Secretaries who withdrew his signature, it does appear that the matter had been considered by the Committee members of the Union. Thus the Joint Secretaries had not taken up the matter on their own initiative or without any authority from the Committee.

11. It was however argued on behalf of the Bank that they raised the plea in para 3 of the written statement that the petition was misconceived and was not sustainable both in law and on facts and that they were therefore entitled to raise this plea now. When a question is a mixed question of facts and law, the party raising a plea must specifically make allegations about facts on which he

relies; otherwise other party would be taken by surprise. Hence a plea which included a question of fact is raised for the first time at the time of arguments, it cannot be allowed. In view of that fact that the Bank had not raised a specific plea on this point, I would hold that the dispute was properly taken up by the Union and is therefore an industrial dispute.

12. It was then urged that this was not an industrial dispute as defined by law. It was argued that the Union had relied on para 530 of the Sastry award for getting the relief asked for by them. It was further argued that this para contains only a recommendation and not a direction; that there could be no industrial dispute on a point on which there was no direction. There appears to be considerable force in this contention.

13. The Sastry award has dealt with the rules regarding promotions in Chapter XXVII at paragraphs 527 to 532. Para 527 only mentions that the item 32 in the reference was regarding rules regarding promotion, Para 528 mentions the contentions of the employees and the employers; Paras 529 to 532 contain the Tribunal's decision on the points. We are not concerned in the present case with Paras 531 and 532, as the former deals with promotions to supervisory and officer's grades and the latter with practical training abroad.

14. Para 529 deals with principles of promotions. The Tribunal observed that they did not think that any hard and fast rules could be laid down in connection with promotions. The Tribunal was opposed to the suggestion that the employees' Union should be consulted in connection with promotions; it could not be supported on principle; it was also not likely to be helpful. The Tribunal then observed that while there was no doubt that seniority in service should be one of the most important factors to be taken into account for the purpose of promotion, the Tribunal was unable to agree that mere length of service alone irrespective of efficiency, educational qualifications, character and nature of responsibility required in connection with the vacancies to be filled in should be the sole or even the main criterion for promotion. The Tribunal then made certain observations about promotions. Lastly, the Tribunal directed that even when direct recruitment to particular posts is decided on, deserving men already in service who come up to the required educational qualifications should also be enabled to compete for such recruitment by a reasonable relaxation of the rules relating to age and other restrictions, if any.

15. Para 530 deals with promotions to clerical cadre. This para reads as under:—

The workmen's demand that persons who have studied upto the pre-matric class should be eligible for promotion to appointments in the lower clerical grade is based upon the assumption that this Tribunal following the Sen Award will insist upon the passing of matriculation or an examination equivalent to it as the minimum qualification. As we have not given any such direction it is not necessary to deal with this demand. It will however suffice to recommend that such members of the subordinate staff as are sufficiently literate and intelligent should be considered for promotion to the clerical grade.

16. The Bank's contention is that para 532 of the Award only recommended that such members of the subordinate staff as were literate and intelligent should be considered for promotion to the clerical grade. They urged that this was a mere recommendation and not a direction. In this connection, my attention was drawn to observations made in para 529, where in certain matters the Tribunal has directed particular thing and in some other matters they have only recommended a particular thing.

17. In this connection, my attention was also drawn on behalf of the Bank to para 12 of the workmen's (Union's) written statement. In this para, the Union first reproduced the recommendations contained in Para 530 of the Sastry Award "it will however suffice to recommend that such members of the subordinate staff as are sufficiently literate and intelligent should be considered for promotion to clerical cadre". After this, the Union contended that "the instant case of Shri Babooram Singh proves beyond doubt that the wish and desire of Sastry Tribunal was not at all honoured by the Bank. They then contended that whenever the workman raised a dispute in this regard the Bank took the stand that there was no such direction in the award in this respect and that they were not under an obligation to honour recommendations of the Tribunal. The Union lastly urged that the discretion given to the Bank had not been judiciously used.

18. It would thus appear that the Sastry Tribunal has not given any direction but has made only a recommendation and this is also admitted by the Union in the written statement. The Union has referred to "the wish" and "desire" of the Sastry Tribunal and to the Bank having a discretion which is said not to have been judiciously exercised.

19. There can be no doubt that there is a distinction between a recommendation and a direction. Whereas direction gives a right, which has got to be carried out and if not carried out could be enforced, recommendation confers no right and if a person refuses to carry out a recommendation however laudable it may be, it is very doubtful whether it could be enforced. I also feel very doubtful whether the non-carrying out of a recommendation could be made the subject matter of an industrial dispute. I need not however express a definite opinion in this case because I think that even on merits the workmen have no case.

20. Assuming that the above recommendation is a direction, it would only mean that such members of the subordinate staff as are sufficiently literate and intelligent would have to be considered for promotion to the clerical grade and that would mean that the Bank was bound to consider the case of Babooram Singh for promotion to the clerical grade if he was sufficiently literate and intelligent.

21. No doubt the workman Babooram Singh is literate; but that would not entitle him to be promoted to the clerical cadre as of right. In this connection, the Bank has stated that he is not a matriculate. The Union's reply to this is that the Bank has employed non-matriculates in other branches. Here also without expressing any definite opinion on the matter, I may mention that merely because a non-matriculate is appointed at another branch, it would not mean that the Bank would not be justified in insisting that it would employ only matriculates in another particular branch. The work of the Bank would differ from branch to branch and its requirements would also be different. This has been recognised in para 493 of the Sastry award. It is observed in that Para that the requirements of different banks are not necessarily uniform and that some of the Banks may insist upon higher standard of general education than other Banks. Some may be satisfied with even non-matriculate candidates, particularly for small branches or pay-offices provided they know the vernacular of the place of appointment and have good connections to enable them to get business for the Bank. In other words, the educational qualifications may differ from branch to branch and non-matriculates may be appointed in small branches but not in large ones. Hence it cannot be said that the Bank's action in insisting only on matriculates being appointed in a branch like its Calcutta office is improper or arbitrary. Here also, I need not express a definite opinion on this point in this case because even if Babooram had the necessary qualifications, it would not mean that he was entitled as a right to be appointed as a clerk.

22. In making a promotion, the Bank has to consider not only educational qualifications (and seniority) but also efficiency, character and nature of responsibility required in connection with the particular work. The Sastry Award has laid down in para 529 that even when an outsider is decided to be recruited, deserving men already in service who come up to the required educational qualifications should also be enabled to compete for such recruitment, and the Bank would then make the appointment after considering the merits of each case.

23. In the present case, the Bank has now appointed an outsider and not promoted the above workman. The question therefore is whether in doing so the Bank has exercised its discretion arbitrarily, capriciously or unjudiciously; and I may at once say that I am not satisfied on any of these points.

24. As I mentioned earlier, a vacancy had occurred in the Calcutta Office in 1960 and at that time also, this workman had made an application for promotion as a clerk. In forwarding that application to the Head Office on 18-2-1960, the Agent had mentioned that the clerical duties that Babooram Singh professed to have attended were unduly exaggerated; that if he made a few entries in the Cash Book, that had been done under the direction of the Cash Section who was himself writing the Cash Book then and that if he had presented a bill now and then in stray instances, it may be under their (Cash Section) direction. The Agent further observed that Babooram had accompanied the Cash clerk to the Reserve Bank remittances and watched the counting. He however further said that "even his services as a Jamader are hardly satisfactory" and he does not possess the minimum required educational qualification to be promoted as a clerk. It appears that Babooram Singh was not then promoted as a clerk in spite of the matter having been referred to the Conciliation Officer.

25. This time also a vacancy occurred in May 1962 and he again made an application mentioning therein the clerical work he had done. Incidentally, I may mention here that the Union has not appreciated the remarks of the Sastry Tribunal made in the earlier portion of para 529 of its award. There they have observed that they were definitely opposed to the suggestion that employees' Unions should be consulted in connection with promotions and that it (this suggestion) could not be supported on principle. Still, the Union in the present case appears to be insisting on this very thing. Babooram Singh made an application to the Agent on 17th May 1962 and on that very day the Union wrote a letter to the Agent requesting him to promote him (Babooram) as a clerk. In other words, the Union indirectly wanted to have a voice in the question of promotion. This is just the thing which the Sastry Tribunal said they were not entitled to and still the Union is doing it.

26. Apart from this question and apart from the question that the Union took up the matter with the Conciliation Officer even before the Bank had taken any decision in the matter, let us consider the case on its own merits. When forwarding the application of Babooram Singh to the Head-Office, the Agent in his letter mentioned that Babooram Singh was appointed as a Jamadar on 13th July 1955 through the medium of Guarantee Cashiers who were responsible for the Cash, Clearing, and bill collecting work; that after the services of Guarantee Cashiers were terminated, Babooram Singh's services were never utilised in a clerical side; and that even in the old system he had not done any substantial work to be taken into consideration. The Agent then mentioned that Babooram Singh's statement made in his application that he had done work in all other sections was not correct. The Agent then gave details of the work that Babooram Singh had done. The Agent lastly mentioned that he felt that Babooram Singh could not cope up with the nature of work that may be required of a clerk in various sections and in the circumstances he felt that he may not be quite suitable for being promoted as a clerk. The matter was in the meanwhile taken up by the Conciliation Officer who requested that Babooram Singh may be appointed on probation. The Head Office then reconsidered the matter and still felt that they could not appoint him as a clerk.

27. It would thus appear that the case of Babooram Singh was considered on merits and the Bank authorities came to the conclusion that he was not suitable for appointment as a clerk. Promotion is normally the function of the Management, and the Tribunal would not be justified in interfering with the Management's decision, unless it was found that in making a promotion, the Management was guilty either of victimisation or of nepotism or if the order were found to be *malafide* or if there was unfair labour practice etc. In the present case, all that the Union has alleged (in clause 5 of para 16 of its written statement) is that the Bank's action was nothing short of unfair labour practice to victimise this employee who has always been an active member of the Union. The allegation is very vague. Merely because a person is an active member of the Union, it does not necessarily mean that he has come in the bad books of the Management nor is there anything to show or suggest that the action of the Management was due to any such reason. There is also no evidence on this point.

28. I may further mention that I am not satisfied that the Management's decision is not proper. The Union relies on the clerical work which Babooram is said to have done from time to time and urges that this shows that he is fit to work as a clerk. Let us therefore examine the alleged clerical work said to have been done by him.

29. Firstly, he is said to have made some entries in the Cash book in 1957. At that time, the Cash Department was under the control of the Guarantee Cashier and he might have taken this work from this man but very probably he would have done so under careful and personal supervision. In any case merely because a person has been able to write some entries in the Cash Book it would not necessarily mean that he is fit to work as a clerk. A clerk in a Bank may not have to work only in Cash section; he may have to work in other sections also; and merely because he was found to have been able to do some work in one section, it would not mean that he would be fit to work in other sections also.

30. So far as his going with a clerk to the Reserve Bank is concerned, the work that he does there is not of a clerical nature. He has only to observe the counting of notes by the Reserve Bank staff. This work is done by other Peons also. Similarly, so far as the work of the telephone is concerned, the Bank does not require a full time telephone operator. Babooram Singh has attended to this

telephone work on very rare occasions and this would not necessarily make him fit for appointment as a clerk.

31. I may then refer to the remarks made by the Agent in 1960 and again in 1962. In 1960, it was remarked that even his services as a Jamadar were hardly satisfactory. In 1962, the Agent remarked that he felt that Babooram "cannot cope up with the nature of work that may be required of a clerk in various sections" and that he "may not be quite suitable for being promoted to the higher grade of a clerk". In view of these remarks of the Agent, it could not be said that the Head Office was not justified in promoting Babooram as a clerk.

32. On the whole, I am not satisfied that the Management's action is mala fide or that this is a case of victimisation, nepotism or unfair labour practice or the like. On the other hand, the Bank appears to have acted properly and hence it could not be ordered to promote Babooram Singh as a clerk.

33. In view of these findings, it is not necessary to consider the other contention of the Bank, namely, that the reference as framed must fail. I shall however briefly refer to it. The matter referred to the Tribunal is whether having regard to provisions in para 530 of the Sastry award, the Management of the Bank was justified in refusing to consider Babooram Singh for promotion as a clerk. This presupposes that the Bank had refused to consider Babooram Singh's case. Actually it has considered this case. Not only had the Bank considered it once, but it reconsidered it at the suggestion of the Conciliation Officer. Hence, there appears to be considerable force in the Bank's contention that the reference as it stands must fail, because there is no refusal to consider the case. In view however of my finding that the Bank's action in refusing to promote Babooram Singh as a clerk after considering his case is proper, I need not give a definite finding on this point.

34. In the result, the workmen are not entitled to any relief. Regarding costs, I would order parties shall bear their own costs.

I pass my award accordingly.

14th February, 1963.

Sd/- L. P. DAVE,
Presiding Officer.
[No. 51(27)/62-LRIV].

ORDERS

New Delhi, the 21st February 1963

S.O. 574.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the National Insurance Co. Ltd., Calcutta and their workmen in respect of the matter specified in the Schedule hereto annexed:

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the action of the National Insurance Company Limited, Calcutta in changing the practice prevalent in the Company of disbursing salaries to its employees on any day in the last week of every month was justified, keeping in view the practice obtaining in this regard in other similar companies and, if not, to what relief are the workmen entitled?

[No. 70(22)/62-LRIV].

New Delhi, the 22nd February 1963

S.O. 575.—Whereas the management in relation to the Pandyan Bank Limited, Madurai and its workmen, represented by the Pandyan Bank Employees' Union

Madras, have jointly applied to the Central Government for reference to a Tribunal of an industrial dispute in respect of the matter set forth in their application reproduced in the Schedule hereto annexed;

And whereas the Central Government is satisfied that the said Employees' Union represents the majority of the workmen;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7A and sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri P. N. Ramaswamy, shall be the Presiding Officer, with headquarters at Madras and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

Application under section 10(2) of the Industrial Disputes Act, 1947 (Act XIV of 1947).

To

The Secretary,
Ministry of Labour & Employment,
Government of India,
New Delhi.

Whereas an Industrial Dispute exists between the Management of the Pandyan Bank Limited, having its Registered Office at Tirumangalam, Madurai District and its Workmen employed in all its Branches within the Indian Union represented by the Pandyan Bank Employees Union, Madras (Registered) Registered No. 2876 having its office at 233, Angappa Nalck Street, Madras-1 in respect of the matters specified in the enclosed statement marked as 'Schedule I' to this application and Whereas the Management and the Union have mutually agreed to have the matters under dispute settled by adjudication by an Industrial Tribunal by making a joint application to the appropriate Government for reference of the said dispute under Section 10(2) of the Industrial Disputes Act, 1947 (Act XIV of 1947) and Whereas it is expedient that the matters specified in the enclosed statement marked as "Schedule I" hereto should be referred for adjudication by a Tribunal.

Our application is hereby made under sub-section 2 of Section 10 of the Industrial Disputes Act, 1947 (Act XIV of 1947) that the said dispute should be referred for adjudication by a Special Industrial Tribunal or by a National Tribunal, as the matters in dispute concern and affect persons employed in more than one State.

This application is made by the President and the General Secretary of the Pandyan Bank Employees Union, Madras-1 who have been duly authorised to do so by virtue of a resolution adopted unanimously at a meeting of the Executive Committee held on 29th November 1962 and also duly authorised by the members of the Union through their authorisations submitted herewith and by the Chairman, Pandyan Bank Ltd. (Registered Office, Tirumangalam).

A statement giving the particulars required under Rule 3 of the Industrial Disputes (Central) Rules 1957 is attached hereto as Schedule I.

Signature of Employer:

For PANDYAN BANK LTD.,
(Sd.) P. V. MACKAY, Chairman.

Signature of the
Representatives of the Union:

For Pandyan Bank Employees' Union.

1. (Sd.) President.
2. (Sd.) C. S. Subramaniam, Secretary.

Dated this TWENTY-FOURTH DAY OF JANUARY, ONE THOUSAND NINE HUNDRED AND SIXTY THREE, AT MADURAI.

Encl :

- (1) Statement under Rule 3 and the list of specific matters under dispute marked as Schedule I.
- (2) Resolution of the Board of Directors, Pandyan Bank Ltd.
- (3) Resolution of the Executive Committee of the Pandyan Bank Employees Union with authorisation from members.

Statement under Rule 3 of the Industrial Disputes Act, (Central) Rules 1957 in relation to the application under Section 10(2) of the Industrial Disputes Act, 1947 by the Pandyan Bank Ltd., (Registered Office: Tirumangalam) and the Pandyan Bank Employees Union Madras-1 dated

(a) Parties to the Dispute:

- (1) The Management of Pandyan Bank Ltd., having its registered Office at Tirumangalam, Madurai in all its branches in the Indian Union numbering 84 including the C.O. at Mathurai represented by the Chairman Board of Directors, Pandyan Bank Ltd., Mathurai and the General Manager, Pandyan Bank Ltd., Mathurai.
- (2) Workmen of the Pandyan Bank Limited, in all its branches in the Indian Union as above, represented by Pandyan Bank Employees Union, 233, Angappa Naick Street, Madras-1.

(b) Specific matters in dispute :

As contained in Schedule I hereto.

(c) Total number of workmen employed in the undertaking affected: About 750.

(d) Estimated number of workmen affected or likely to be affected: About 750.

(e) Efforts made by the parties themselves to adjust the dispute: Direct negotiations between the Management and the Union resulting in partial settlement as to the implementation of Desai Award. The items in schedule I could not be settled by direct negotiations and it was agreed to make a joint application to the Central Government to have the issues in dispute as contained in Schedule I hereto referred for adjudication.

(Sd.) P. V. MACKAY

(Sd.) Illegible.

(Sd.) C. S. SUBRAMANIAM.

Schedule I to application under Section 10(2) of Industrial Disputes Act, 1947 dated 24th January 1963 made by The Pandyan Bank Limited, Registered Office; Tirumangalam and its workmen represented by the Pandyan Bank Employees Union, Madras-1.

1. Whether the following 91 employees of the bank employed in its various branches in the Indian Union, whose names and designations are given below are workmen or non-workmen within the meaning of the Section 2(S) of the Industrial Disputes Act, 1947 by virtue of the nature of actual duties performed by them, and whether the Award of the National Industrial Tribunal (Bank Disputes) otherwise known as the Desai Award shall govern the undernoted 91 employees.

2. Is the method of fitment adopted by the Bank in re-fixing the basic pay of the workmen in terms of the provisions of the Desai Award correct? Are the workmen entitled, in terms of the provisions of Desai Award at Paragraphs 5.347 to 5.361 to one additional increment over the basic pay as re-fixed by the Bank?

(Sd.) P. V. MACKAY

(Sd.) Illegible.

(Sd.) C. S. SUBRAMANIAM.

Agents.

1. Mr. S. Saptharishi
2. Mr. M. R. Chandrarathinam
3. Mr. B. K. Venkataraman
4. Mr. Lionel P. Rayan.
5. Mr. A. Rajamanickam.
6. Mr. G. Subramanian.
7. Mr. V. S. Sankaran.
8. Mr. S. Subramanian.
9. Mr. R. Sankaranarayanan.
10. Mr. S. Somasundaram.
11. Mr. S. Mani.

12. Mr. R. Rajagopalan.
13. Mr. K. Ramakrishnan.
14. Mr. K. R. Krishnamurthy.
15. Mr. S. P. Dhakshinamoorthy.
16. Mr. Britto Motha.
17. Mr. M. G. Lakshmana Shenoy.
18. Mr. S. Srinivasan.
19. Mr. R. M. Venkatachalam.
20. Mr. P. K. Swaminathan.
21. Mr. L. Narayanaswamy.
22. Mr. V. Parthasarthy.
23. Mr. N. Rajagopal.
24. Mr. K. Kuppuswamy.
25. Mr. V. S. V. Mani.
26. Mr. V. S. S. Krishnan.
27. Mr. V. Balakrishnaswamy.
28. Mr. T. V. Kuppuswamy.
29. Mr. Mr. M. S. Balasubramanian.
30. Mr. R. Mallikarjuna Roa.
31. Mr. L. Natarajan.
32. Mr. M. V. Ramalingam.
33. Mr. S. Subramanian.
34. Mr. K. Rajam.
35. Mr. V. R. Ramanathan.
36. Mr. A. Arumugaperumal.
37. Mr. K. S. Ramaswamy.
38. Mr. A. N. Venkataraman.
39. Mr. R. Balakrishna Kinf.
40. Mr. M. R. Ramalingam.
41. Mr. E. Sundaram.
42. Mr. M. S. Venkataraman.
43. Mr. P. Gopalakrishnan.
44. Mr. S. Padmagiresan.
45. Mr. P. Varadhachary.
46. Mr. K. Veerabhadran.
47. Mr. N. Ramamurthy.
48. Mr. M. Mahalingam.
49. Mr. S. Natarajan.
50. Mr. R. Ramasubbu.
51. Mr. M. Thiagarajan.
52. Mr. A. G. Krishnaswamy Iyer.
53. Mr. T. K. Seshan.
54. Mr. K. N. Lakshminarayanan.
55. Mr. S. Meenakshisundarasomayaji.
56. Mr. K. L. Nanuswamy.
57. Mr. K. Thiruvengadathan.
58. Mr. K. Govindan.
59. Mr. M. A. Gururajan.
60. Mr. K. Gopalakrishnan.
61. Mr. V. Krishnamurthy.
62. Mr. S. Ramaswamy.
63. Mr. A. Vishnudoss.
64. Mr. I. C. Fernando.
65. Mr. T. M. Ramamoorthy.
66. Mr. N. Ganapathy.
67. Mr. N. R. Thiagarajan.
68. Mr. T. R. Chitrambalam.
69. Mr. L. Ramiah.
70. Mr. T. V. Muthuswamy.
71. Mr. J. J. Devadoss.
72. Mr. R. Anantharaman.
73. Mr. K. Viswanathan.
74. Mr. G. Karthikeyan.
75. Mr. M. Rajamani.
76. Mr. N. Swaminathan.
77. Mr. G. Purushothama Pal.
78. Mr. N. Ramaswamy.
79. Mr. R. Mahadevan.
80. Mr. A. Balaguruswamy.
81. Mr. M. Subramanian.

Central Office.

1. Mr. S. Venkatasubramanian.
2. Mr. R. V. Nath.
3. Mr. S. Natesan.
4. Mr. K. Ramakrishnan.
5. Mr. V. Varadharajan.
6. Mr. S. Mayakalai.
7. Mr. A. Venkateswaran.

Relief Agents.

1. Mr. M. Sankaranarayanan.
2. Mr. K. U. Ramaswamy.
2. Mr. S. Soundarapandian.

PANDYAN BANK LIMITED**BOARD RESOLUTION DATED 1ST NOVEMBER 1962.**

"Resolved that the Desai Award in respect of the scales of pay, allowances and other benefits be implemented with effect from 1st October 1962 and payment be made in accordance with the new scales of pay.

After discussion with the Employees' Representatives, and the Board, it was mutually agreed that the employees waive their claim to the arrears arising out of the difference between salaries and allowances received during the period 1st January 1962 to 30th September 1962 and those now awarded by the Desai Award for that period.

In view of this gesture on the part of the employees, the Board resolved to grant a special allowance commencing from 1st January 1963 and ceasing on 30th June 1964 in accordance with the schedule to an agreement to be entered into between the employees and the Bank in implementation of this Resolution.

The Agreement is to be signed by the Chairman of the Board for purposes of identification.

It was unanimously agreed that in view of the above, Resolution No. 4 passed at the Board Meeting held on 17th September 1962 was no longer applicable and stands cancelled."

Resolution passed unanimously by the Executive Committee of the Union at its meeting held on 29th November, 1962.

"This meeting of the Executive Committee after having carefully considered the reports, made by the representatives of the Union, of the discussions they had with the Board of Directors of the bank in the matter of implementation of the Desai Award and the resolution dated 1st November, 1962 of the Board of Directors of the bank hereby resolves:—

- (1) To agree for the payment of nine months arrears (1st January, 1962 to 30th September, 1962) that accrue to the employees on account of implementation of the Award by way of special allowances payable in 18 monthly instalments commencing from 1st January, 1963 and ending with 30th June, 1964.
- (2) To authorise the President, General Secretary and one of the Assistant Secretaries to sign the agreement that is to be signed with the management in this behalf.
- (3) To authorise the President and the General Secretary of the Union to make joint applications under Section 10(2) of the Industrial Disputes Act 1947 for getting the issues that are not resolved through negotiations referred for adjudication as visualised in the resolution, of the Extra Ordinary General Body of the Union held on 2nd September, 1962".

Resolution adopted at the Extra Ordinary General Body Meeting of the Union held on 2nd September, 1962 in respect of implementation of Desai Award.

"This Extra Ordinary General Body Meeting of the Union after having taken note of the circumstances and after having heard the representatives about the discussions they had with the management of the bank hereby resolves:—

1. To recommend to All India Bank Employees' Association to accord its concurrence for the understanding reached between the Union and the management of the bank in the matter of the mode of implementation of the Award of the National Industrial Tribunal (Bank Disputes)

and

2. To authorise the President and the General Secretary to take such further steps as are necessary to get the Award enforced, in the light of the understanding reached, as indicated above, and also to take such other steps as may be deemed necessary for the full and proper implementation of the Award".

[No. 55(3)/63-LRIV.]

G. JAGANNATHAN, Under Secy